

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2206091
<b>Decision Date:</b>	9/20/2022	<b>Hearing Date:</b>	09/14/2022
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Appellant with Mother

**Appearance for MassHealth:**  
Dr. Harold Kaplan, DMD



*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

# APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Orthodontics
<b>Decision Date:</b>	9/20/2022	<b>Hearing Date:</b>	09/14/2022
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated August 7, 2022, MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on August 11, 2022 (130 CMR 610.015; Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for comprehensive orthodontic services.

## Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Kaplan testified that he is a licensed orthodontist with many years of clinical experience. On June 10, 2022, Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment with

X-rays and photographs. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 23 points (Exhibit 1, p. 10). Appellant's orthodontic provider scored 5 points for mandibular protrusion and 3 points for ectopic eruption. The provider's HLD Form does not record any autoqualifiers, and indicates a medical necessity narrative that was not included with the request (Exhibit 1, pp. 10-11).<sup>1</sup> Appellant's orthodontic provider also indicated that no additional supporting documentation related to medical necessity was submitted (Exhibit 1, p. 11). Dr. Kaplan testified that a DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 9 points. The DentaQuest reviewing orthodontist scored no points for mandibular protrusion and no points for ectopic eruption. (Exhibit 1, p. 15). Dr. Kaplan testified that he carefully reviewed and measured the photographs and X-rays and calculated a score of 15 points. Dr. Kaplan testified that Appellant's orthodontic provider indicated ectopic eruption involving the lower right 2<sup>nd</sup> bicuspid. Dr. Kaplan stated that ectopic eruption means that a tooth is out of alignment and cannot emerge into alignment. Dr. Kaplan stated that Appellant's lower right 2<sup>nd</sup> bicuspid is rotated but is in alignment and is not ectopically erupted. Dr. Kaplan also scored no points for mandibular protrusion which he described as the relationship of the upper molars to the lower molars. He stated that the photographs show Appellant's bite in the back of the mouth is almost ideal, and the occlusion between upper and lower teeth is almost perfect (Exhibit 1, p. 14). Therefore, the HLD was reduced to 15 points and resulted in a denial.

Appellant appeared with her mother and testified that two orthodontic providers told her that she needs orthodontics because she has TMJ<sup>2</sup> causing her jaw to lock. Dr. Kaplan stated that TMJ involves clicking in the joint because the lower jaw is out of position. Dr. Kaplan testified that TMJ is appropriately diagnosed by a medical specialist including a dentist rather than an orthodontist; however, orthodontics or other appliances may be used to treat TMJ. Dr. Kaplan added that a new prior authorization request should include a medical narrative from the medical specialist that addresses a TMJ diagnosis, but that diagnosis should not be made by an orthodontist.

## Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. On June 10, 2022, Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment with X-rays and photographs.
2. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 23 points.
3. Appellant's orthodontic provider scored 5 points for mandibular protrusion, and 3 points for ectopic eruption.

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<sup>1</sup> The prior authorization request includes a form named "Medical Necessity Narrative Form" by the provider, but no narrative is included other than checked boxes indicating crowding (Exhibit 1, p. 8).

<sup>2</sup> Temporomandibular joint dysfunction.

4. Appellant's orthodontic provider indicated ectopic eruption involving the lower right 2<sup>nd</sup> bicuspid.
5. Appellant's orthodontist did not record any autoqualifiers and did not provide a medical necessity narrative or supporting documentation related to medical necessity.
6. A DentaQuest reviewing orthodontist completed the HLD measurements based on photographs and X-rays and arrived at a score of 9 points, with no points for mandibular protrusion, and no points for ectopic eruption.
7. Dr. Kaplan calculated a HLD score of 15 points, scoring no points for mandibular protrusion, and no points for ectopic eruption.
8. Ectopic eruption means that a tooth is out of alignment and cannot emerge into alignment.
9. Appellant's lower right 2<sup>nd</sup> bicuspid is rotated but is in alignment and is not ectopically erupted.
10. Mandibular protrusion is the relationship of the upper molars to the lower molars.
11. Appellant's bite in the back of the mouth is almost ideal, and the occlusion between upper and lower teeth is almost perfect.

## **Analysis and Conclusions of Law**

Regulation 130 CMR 420.431(C)(3) states in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

Appendix D of the *Dental Manual* is the "Handicapping Labio-Lingual Deviations Form" (HLD), which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion. Appellant's orthodontic provider recorded a HLD score of 23 points, scoring 5 points for mandibular protrusion, and 3 points for ectopic eruption. The provider's HLD Form does not record any autoqualifiers and includes no medical necessity narrative or supporting documentation related to medical necessity. A DentaQuest reviewing orthodontist scored 9 points, with no points for mandibular protrusion, and no points for ectopic eruption. Dr. Kaplan, who is a duly licensed orthodontist with many years of

clinical experience, calculated a score of 15 points, and provided specific testimony that identified Appellant's lower right 2<sup>nd</sup> bicuspid as rotated but in alignment and not ectopically erupted. Further, Dr. Kaplan described Appellant's bite in the back of the mouth as almost ideal, and the occlusion between upper and lower teeth as almost perfect. Although Appellant's orthodontist examined Appellant in person, Dr. Kaplan's testimony is more credible because his findings are specific, supported by the evidence in the hearing record, and further corroborated by similar scoring reductions by the DentaQuest reviewing orthodontist. Therefore, the evidence and testimony support the conclusion that Appellant's HLD score is below the required 22 points at this time. There is no mention of TMJ in the prior authorization request, and no medical narrative was submitted with the request addressing a TMJ diagnosis. Appellant may wish to address her concerns about a diagnosis of TMJ to an appropriate medical specialist or dentist.

The appeal is denied.

## **Order for MassHealth**

None.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA