

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2206338

**Decision Date:** 9/29/2022

**Hearing Date:** 09/26/2022

**Hearing Officer:** Thomas Doyle

**Record Open to:**

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Permuter

**Interpreter:**



*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>	PA-Dental Services
<b>Decision Date:</b>	9/29/2022	<b>Hearing Date:</b>	09/26/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	[REDACTED] (mother)
<b>Hearing Location:</b>	Remote (phone)	<b>Aid Pending:</b>	No

## 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 14, 2022, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on August 22, 2022 (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied appellant's request for approval of the prior authorization for braces or full and comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

## Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by her mother. MassHealth was represented by Dr. Carl Perlmutter, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run

the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Perlmutter testified that the MassHealth does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 24. Dr. Perlmutter testified that, on the HLD point scale, 22 points is needed for approval. Dr. Perlmutter testified that he found a score of 12 on the scale. DentaQuest reached a score of 16.

Regardless of point total, it is also possible to qualify for orthodontic treatment if appellant has a condition deemed an automatic qualifier. Here, appellant's provider did not find an automatic qualifier was present. Dr. Perlmutter testified he also did not find an automatic qualifier was present and evidence submitted by DentaQuest also shows, in their review, no automatic qualifier was found.

Mother of appellant testified that appellant has an overbite that causes pain. She expressed her concern that as time goes by, her daughter's teeth keep shifting. She also asked Dr. Perlmutter to again explain how he came to his finding of 12 points on the HLD form.

## **Findings of Fact**

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony and Ex. 1; Ex. 4, p. 2-4).
2. Neither the initial DentaQuest review nor the review testified to by Dr. Perlmutter found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 14; Testimony).
3. Appellant's provider submitted the request with an HLD score of 24 points. (Ex. 4, p. 8).
4. No evidence was submitted that appellant had any automatic qualifier applicable. (Ex. 4, p. 8 and 14; Testimony).

5. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 9; Testimony).

## Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,<sup>1</sup> covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

### 420.431: Service Descriptions and Limitations: Orthodontic Services

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. ...

### (C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime younger than 21 years old and **only when the member has a handicapping malocclusion**. The MassHealth agency determines whether a **malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual**. ...

(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an "auto qualifying" condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or

---

<sup>1</sup> 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

(3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In this case, appellant's dentist did not indicate the presence of an automatic qualifier condition, nor did the orthodontist submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces. (Testimony; Ex. 4, pp. 8 and 9).

That leaves only a need to review the HLD scores to see if appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. In this case, appellant's orthodontic provider found a score of 24 points on the HLD scale. (Ex. 4, p. 8). DentaQuest found a score of 16 on the HLD scale. (Ex. 4, p. 14). Dr. Perlmutter calculated an HLD scale of 12. (Testimony). Dr. Perlmutter explained that appellant's orthodontist miscalculated in his scoring on the HLD scale. The doctor stated he looked at appellant's photos on a computer, which enabled him to enlarge and magnify the pictures and he did not see the situation that appellant's orthodontist apparently did; therefore he was able to deduct points from the score of 24 found by appellant's orthodontist. He also stated the photos did not go all the way back in appellant's mouth. (Testimony). I find Dr. Perlmutter's explanation of his process in reviewing the photos of appellant's mouth to be very thorough. Dr. Perlmutter is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that opinion of the orthodontist present at hearing to be persuasive and plausible.

Appellant's arguments about how appellant would benefit from the treatment unfortunately do not serve as a separate basis for approval at the current time. For these reasons, I conclude that there is no basis to rescind or overrule the MassHealth decision.

This 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.

---

Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 2, MA

[REDACTED]