

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2206833
<b>Decision Date:</b>	11/1/2022	<b>Hearing Date:</b>	10/19/2022
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Appellant with Mother

**Appearance for MassHealth:**  
Dr. Carl Perlmutter, 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>	11/1/2022	<b>Hearing Date:</b>	10/19/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote	<b>Interpreter:</b>	Language Line

## 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 18, 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 September 12, 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 of 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. Carl Perlmutter, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Perlmutter testified that he is a licensed orthodontist with many years of clinical experience. 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 (Exhibit 1, p. 12). Appellant's orthodontic provider's HLD Form does not calculate a HLD score, but instead indicates a deep impinging overbite and overjet in excess of 9mm, which are autoqualifying conditions. A medical necessity narrative was not submitted (Id., p. 13). Dr. Perlmutter testified that a DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 17 points, and indicated no autoqualifiers (Id., p. 6). Dr. Perlmutter testified that he carefully reviewed and measured the photographs and X-rays and calculated a score of 17 points. Dr. Perlmutter also testified that he carefully reviewed the photographs under magnification and did not see evidence of a deep impinging overbite and no damage to the palatal tissue caused by the lower teeth. Dr. Perlmutter added that the photographs show that Appellant's lower front teeth are visible when she bites down, showing that there is no deep impinging overbite. Dr. Perlmutter stated that he carefully measured a photograph of the side of the head confirming that Appellant does have an overjet measuring 6mm, not 9mm as asserted by Appellant's provider. Therefore, the denial was upheld as no autoqualifiers were met, and the HLD score is below the required 22 points.

Appellant appeared with her mother who stated that Dr. Perlmutter did not see Appellant in person, and that the photographs of Appellant's condition were taken in July 2022 and are likely no longer accurate. She added that Appellant grinds her teeth at night, and sleeps with her mouth open causing her to snore. She stated that Appellant has difficulty biting hard foods because she has difficulty opening her mouth. She testified that she wants Appellant to look her best, and people comment that her teeth are not pretty. Appellant testified that she plays the flute, and finds it difficult to play because of her teeth.

Dr. Perlmutter testified that Appellant can submit a letter of medical necessity from a physician or psychologist that describes how her teeth are affecting her which will be considered by MassHealth in determining payment. He added that Appellant can submit a new prior authorization request in 6 months with updated photographs and X-rays.

## **Findings of Fact**

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

1. 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. Appellant's orthodontic provider did not complete HLD scoring, and indicated a deep impinging overbite, and overjet in excess of 9mm.
3. Appellant's orthodontic provider's HLD Form does not include a medical necessity

narrative.

4. A DentaQuest reviewing orthodontist and Dr. Perlmutter completed the HLD measurements based on photographs and X-rays and arrived at scores of 17 points and 17 points, respectively.
5. Appellant does not have a deep impinging overbite. There is no soft tissue damage to the palatal tissue, and her lower teeth are visible in photographs when biting down.
6. Appellant's overjet measures 6mm.

## **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. Further, Appendix D of the *Dental Manual* designates for automatic approval, a deep-impinging overbite with severe soft tissue damage (e.g., ulcerations or tissue tears – more than indentations); and overjet in excess of 9mm. Dr. Perlmutter, a licensed orthodontist with many years of clinical experience, testified that there is no evidence of soft tissue damage resulting from a deep impinging overbite, and Appellant's lower teeth are visible when she bites down which is contrary to a deep impinging overbite (See Exhibit 1, p. 10). Further, Dr. Perlmutter testified that he carefully measured a photograph of the side of the head confirming that Appellant does have an overjet measuring 6mm, not 9mm as asserted by Appellant's provider (*Id.*). Although he did not examine Appellant in person as Appellant's mother notes, I find Dr. Perlmutter's testimony credible and supported by the photographic evidence. Because Appellant's provider indicated autoqualifying conditions that do not exist in Appellant's mouth to the degree necessary to warrant approval, and did not measure a HLD score, Appellant does not meet the definition of a handicapping malocclusion at this time.

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