

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2207724
<b>Decision Date:</b>	1/10/2023	<b>Hearing Date:</b>	11/21/2022
<b>Hearing Officer:</b>	Casey Groff, Esq.		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Carl Perlmutter, D.M.D.



*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>	Prior Authorization; Orthodontic Services
<b>Decision Date:</b>	1/10/2023	<b>Hearing Date:</b>	11/21/2022
<b>MassHealth's Rep.:</b>	Carl Perlmutter, D.M.D.	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Board of Hearings (Remote)	<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 September 22, 2022, MassHealth informed Appellant, a minor, that it denied her prior authorization request for comprehensive orthodontic treatment. See Exhibits 2 and 4. Appellant's mother filed a timely appeal on her behalf on October 18, 2022. See 130 CMR 610.015(B) and Exhibit 1. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth correctly denied Appellant's prior authorization request for comprehensive orthodontic treatment.

## Summary of Evidence

At hearing, MassHealth was represented by Dr. Carl Perlmutter, D.M.D. a licensed orthodontist consultant from DentaQuest. DentaQuest is the third-party contractor that administers and manages MassHealth's dental program. Through testimony and documentary submissions, the MassHealth representative presented the following evidence: On September 21, 2022, Appellant's orthodontic provider sent MassHealth a prior authorization (PA) request seeking coverage of comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). See Exh. 4. Appellant is a MassHealth member under the age of 18. Id. On September 22, 2022, MassHealth denied the PA request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id. at 3-6.

Dr. Perlmutter explained that MassHealth will only authorize coverage for comprehensive orthodontic treatment (i.e. braces) when there is evidence of a handicapping malocclusion. MassHealth uses a Handicapping Labio-Lingual Deviations (HLD) Index to determine whether a handicapping malocclusion exists. The HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score representing the degree to which a case deviates from normal alignment and occlusion. MassHealth does not consider a condition to be "physically handicapping" unless the individual's HLD score is 22 points or higher. In addition, MassHealth will reimburse for braces if the member meets a "medical necessity" exception or has one of several enumerated "auto-qualifying" conditions, which, if present, would constitute an alternative basis to render a finding that the condition is physically handicapping.

Dr. Perlmutter testified that according to the PA request and HLD Index submitted therein, Appellant's orthodontist measured Appellant with an HLD score of 18 points. See id. at 9. The PA request did not cite any other grounds for the requested treatment. With only the HLD score of 18 points, the provider's own findings did not demonstrate that Appellant had a "handicapping malocclusion" as defined by MassHealth. Nevertheless, a MassHealth dental consultant reviewed the PA request, which included Appellant's relevant dental records, oral and facial photographs, a side x-ray, and panoramic x-ray. The reviewing consultant found Appellant had an HLD score of 17 points. Id. at 15. Based on these findings, MassHealth denied the prior authorization request pursuant to its September 22<sup>nd</sup> notice. Id. at 2. Dr. Perlmutter testified that in advance of this hearing, he conducted a thorough and careful secondary review of Appellant's dental records. Consistent with the previous measurements, Dr. Perlmutter also calculated an HLD score under the requisite 22 points, and thus upheld the MassHealth denial.

Appellant's mother appeared at the hearing and argued that the requested orthodontic treatment is necessary. She explained that her daughter (Appellant) has now seen two orthodontists, including the orthodontic provider that submitted this PA request, and both opined that she needed braces. Her original orthodontist suggested she get braces sooner rather than later. Her teeth are overlapping, her bottom teeth started to turn, and her overbite is becoming more apparent. They went to see the current provider to get a second opinion. The new provider also felt it was medically necessary for her to obtain this treatment sooner rather than later. She already has overcrowding and is having pain in the back of her mouth. The longer she waits to get treatment, more teeth will turn, and her condition will get more severe. Appellant's mother

explained that she does not want her daughter's teeth to get worse before she can be approved for braces. Because two different dental providers have now recommended this treatment, Appellant should be entitled to have braces covered by MassHealth.

## Findings of Fact

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

1. On September 21, 2022, Appellant's orthodontic provider sent MassHealth a PA request on behalf of Appellant seeking coverage of comprehensive orthodontic treatment.
2. Appellant is MassHealth member under the age of 18.
3. In the PA request, the provider reported a finding that Appellant had an HLD score of 18.
4. In reviewing the PA request, which included Appellant's dental records, oral and facial photographs, and x-rays, a MassHealth dental consultant calculated an HLD score of 17.
5. On September 22, 2022, MassHealth denied the PA request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment
6. At hearing, the MassHealth representative – a licensed orthodontist and dental consultant - conducted a secondary review of Appellant's dental records and calculated an HLD under the requisite 22 points, thereby affirming the MassHealth denial.

## Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment provides, in relevant part, the following:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 ***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*.

See 130 CMR 420.431(C)(3) (emphasis added).

Appendix D of the *Dental Manual* is the Authorization Form for Comprehensive Orthodontic Treatment and consists of the "Handicapping Labio-Lingual Deviations" (HLD) Index. The HLD is described as a quantitative, objective method for measuring malocclusion. See Exh. 4. 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. See Dental Manual, Appendix D. Additionally, MassHealth will approve coverage for orthodontic treatment, without regard for the HLD numerical score, if there is evidence that the member has an “auto-qualifying” condition. Id. The HLD Index lists 13 separate auto-qualifying conditions which a provider may check, if applicable, as a basis for the requested treatment. See id. The HLD form explicitly states that ***MassHealth will authorize treatment only “for cases with verified auto-qualifiers or verified scores of 22 and above.”*** See id. (emphasis added). Finally, in cases where a member does not meet the threshold HLD score or have an auto-qualifying condition, MassHealth will consider coverage of braces if the provider and/or other involved clinician(s) submit a “medical necessity narrative” that details, why, in the provider’s clinical and professional opinion, that comprehensive orthodontic treatment is medically necessary to treat the malocclusion.<sup>1</sup>

In this case, Appellant’s orthodontist, through a prior authorization submission, requested MassHealth cover the cost of proposed orthodontic treatment based upon a finding that Appellant had an HLD score of 18 points. See Exh. 4. In reviewing Appellant’s PA request, and the photographs and x-rays contained therein, a MassHealth orthodontic consultant measured an HLD score of 17. See id. Because neither the providing orthodontist, nor the reviewing MassHealth consultant found Appellant had an HLD score of 22 points or more, MassHealth denied the requested treatment. See id. at 3-6. As part of the fair hearing process, a different MassHealth orthodontic consultant – Dr. Perlmutter - performed a secondary review of Appellant’s records. Consistent with the prior findings, Dr. Perlmutter also measured an HLD score under the requisite 22 points. There was no evidence offered into the record to indicate Appellant has a “handicapping malocclusion” to warrant coverage for orthodontic treatment at this time. See 130 CMR 420.431(C)(3).

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<sup>1</sup> Under Appendix D of the Dental Manual the “medical necessity narrative” must further show that the treatment will correct or significantly ameliorate (i.) a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures; ii. a diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion; iii. a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion; iv. a diagnosed speech or language pathology caused by the patient’s malocclusion; or v. a condition in which the overall severity or impact of the patient’s malocclusion is not otherwise apparent. The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider’s justification of medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must: (1) clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g., general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist); (2) describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment; (3) state the specific diagnosis or other opinion of the patient’s condition furnished by the identified clinician(s); (4) document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made); (5) discuss any treatments for the patient’s condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and (6) provide any other relevant information from the clinician(s) that supports the requesting provider’s justification of the medical necessity of comprehensive orthodontic treatment.

Based on the foregoing, 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.

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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA