

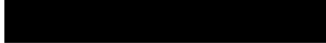
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2207860
<b>Decision Date:</b>	12/20/2022	<b>Hearing Date:</b>	11/21/2022
<b>Hearing Officer:</b>	Casey Groff, Esq.	<b>Record Open to:</b>	11/28/2022

**Appearance for Appellant:**



**Appearance for MassHealth:**

Carl Perlmutter, D.M.D., DentaQuest



*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>	12/20/2022	<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 October 6, 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 19, 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 the MassHealth dental program. According to testimony and documentary evidence presented by the MassHealth representative, Appellant is a minor child and MassHealth recipient. Appellant's orthodontic provider sent MassHealth a prior authorization request on October 4, 2022, seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). See Exh. 4, p. 3. On October 6, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id.

Dr. Perlmutter explained that MassHealth will only authorize coverage for comprehensive orthodontic treatment when there is evidence of a handicapping malocclusion. MassHealth requires providers to complete the "Handicapping Labio-Lingual Deviations" (HLD) Index, which captures the objective measurements of various characteristics of the subject's teeth, such as crowding, overbite, and overjet. Each characteristic is assigned a numerical score based on the measurement, the total of which represents the degree to which a case deviates from normal alignment and occlusion. MassHealth only considers a malocclusion to be "physically handicapping" if the individual's HLD score is at least 22 points, or if a particular characteristic of their bite is so severe that it falls into one of several enumerated "auto-qualifying" conditions, as outlined in the HLD Index. MassHealth will also consider alternative bases for coverage when the request contains a clinical narrative and documentation establishing medical necessity.

In the present case, Appellant's provider submitted the PA request on behalf of Appellant citing two grounds for coverage of the requested treatment. First, the provider found that Appellant had an auto-qualifying condition of an excessive overjet, which he measured at 9 millimeters (mm). Second, the provider calculated a total numerical score of 25 points, which included 9 points representing the 9mm overjet. When a MassHealth dental consultant reviewed the PA submission, which included x-rays and written information, the consultant calculated a total HLD score of 17, which included an overjet measurement of 8mm. Id. at 16. As MassHealth could not verify the presence of an auto qualifying condition, or an HLD score above 22 points, the prior authorization request was denied. Id. at 2. Dr. Perlmutter testified that he attempted to perform a secondary review of the prior authorization documents, which included side and panoramic x-rays taken of Appellant's mouth; however, the provider did not include the requisite photographs of Appellant's bite or facial features. Without these photographs, Dr. Perlmutter was unable to verify the existence of an auto-qualifying condition or an HLD score of 22 points or more and thus affirmed the MassHealth denial.

In response, Appellant's mother testified, via telephone, that her daughter's top front teeth extend beyond the bottom teeth such that they do not touch. Appellant sucked her thumb from an early age until she turned 10 years old. Despite efforts to break the habit, nothing worked, and her jaw eventually began to shift, creating the overjet and overbite problems that she currently has. Although MassHealth did not agree with the provider's HLD score, Appellant's mother argued that her daughter meets two alternative bases for approval of braces; specifically she has a severe

overjet, and that her persistent thumb-sucking over the years amounted to “trauma” that caused changes in her bite.

At the conclusion of the hearing, the record was left open for Appellant to submit the photographs which had not been included with the PA request. See Exh. 5. Appellant submitted a timely production of the photographs during the record-open period, which were then reviewed by MassHealth. See Exh. 6. After reviewing the photographs, along with the previously submitted x-rays, Dr. Perlmutter submitted his HLD findings, as follows: overjet of 8 mm (8 points), overbite of 2mm (2 points), mandibular anterior crowding (5 points), and labio-lingual spread (2 points), for a total HLD score of 17 points. See Exh. 7. Dr. Perlmutter responded that the photographs and x-rays did not confirm the presence of an anterior open bite as had been indicated by Appellant’s provider and factored into the provider’s HLD score. Id. Based on the review, Dr. Perlmutter upheld MassHealth’s decision of non-payment for braces.

Appellant’s mother submitted a final response in which she argued that MassHealth limited its decision based on the HLD score findings but failed to consider coverage based on her conditions that should automatically qualify Appellant for coverage, i.e. severe overjet and trauma (thumb sucking) which caused changes in her jaw. See id.

## **Findings of Fact**

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

1. Appellant is a minor child and MassHealth recipient.
2. On October 4, 2022, Appellant’s orthodontic provider sent MassHealth a PA request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670).
3. According to the PA request, the provider requested orthodontic treatment based on his examination of Appellant, which included findings of an excessive overjet of 9mm and a total HLD score of 25 points, which included 9 points representing the 9mm overjet.
4. In reviewing the PA request, a MassHealth dental consultant calculated a total HLD score of 17 points and measured an 8mm overjet.
5. On October 6, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment.
6. Through the fair hearing process, Appellant was given additional time to submit copies of Appellant’s facial photographs for a second and more thorough MassHealth orthodontic review of the PA request with the completed orthodontic records.

7. Upon review of the PA request, x-rays and newly submitted facial photographs, Dr. Perlmutter, made the following HLD findings, which were consistent with the initial MassHealth review: overjet of 8 mm (8 points), overbite of 2mm (2 points), mandibular anterior crowding (5 points), and labio-lingual spread (2 points), for a total HLD score of 17 points.

## Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, 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 includes the “Handicapping Labio-Lingual Deviations” (HLD) Index, which must be completed by the requesting provider and submitted with the PA request to establish medical necessity of the proposed treatment. The HLD Index is described as a quantitative, objective method for measuring the degree of a subject’s malocclusion. See *Dental Manual*, Appendix D, p. 1. Through this methodology, members are assigned a single score, based on a series of measurements that represent the degree to which their case deviates from normal alignment and occlusion. *Id.* MassHealth has determined that an HLD score of 22 points or higher signifies a handicapping malocclusion. See *id.* at 2. MassHealth will also authorize treatment without regard for the HLD numerical score, if the member has one single characteristic, which by itself is so severe, that it automatically qualifies him or her for braces. *Id.* These characteristics are listed in the HLD Index as “auto-qualifying” conditions, one of which is having an “overjet (***greater than*** 9mm).” See *id.* (emphasis added). 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).

MassHealth also allows providers to seek coverage of orthodontic treatment through submitting a medical necessity narrative written by a treating clinician. The narrative must sufficiently explain why comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate a health-related condition caused by the malocclusion. Examples of such conditions are further detailed in Appendix D, and include mental, emotional, and behavioral conditions; nutritional deficiencies; or a diagnosed speech or language pathology.<sup>1</sup> *Id.*

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<sup>1</sup> Under Appendix D of the Dental Manual the “medical necessity narrative” must show that the treatment will

In this case, Appellant's provider sought coverage for orthodontic treatment on two grounds. As to the first basis, the provider indicated Appellant had one of the enumerated auto-qualifying conditions, specifically an "overjet (greater than 9mm)." See Exh. 4, p. 11. However, pursuant to the provider's own examination, Appellant's overjet measured at 9mm exactly, which falls short of the threshold distance to warrant coverage on this basis.<sup>2</sup> Id. Additionally, and contrary to Appellant's argument, MassHealth examined Appellant's dental records to identify the presence of an auto qualifying condition. In its two reviews, both dental consultants found Appellant had an overjet of 8mm. See id. at 16; see also Exh. 7. Because neither the provider, nor MassHealth measured Appellant's overjet as "greater than 9mm," there is insufficient evidence of an "auto qualifying condition" to justify reversal of MassHealth's decision.<sup>3</sup>

The second grounds for coverage, as indicated by Appellant's provider, was based on the total HLD score given to Appellant of 25 points. Again, MassHealth, through its orthodontic consultants, reviewed Appellant's treatment records multiple times. In each instance, the reviewers came to the same finding that Appellant's HLD score was 17 points. As noted above, MassHealth has a rigid standard on what constitutes a "handicapping malocclusion" and limits coverage *only* for cases with "verified" auto-qualifiers or HLD scores of 22 and above. Given the consistency in both MassHealth consultants' findings, and in consideration of the notable gap between total HLD scores (i.e. 25 vs. 17), MassHealth was unable to "verify," through the documentation submitted by the provider, a qualifying HLD score. Appellant has not demonstrated that MassHealth erred in denying the requested coverage for orthodontic treatment.<sup>4</sup> See 130 CMR 420.431(C)(3).

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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." Additional submission requirements are outlined in Appendix D when the justification for 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. See MassHealth Dental Manual, Appendix D.

<sup>2</sup> While the plain meaning of the "greater than" language excludes the number being referred to (in this case, 9mm), it is also noted, for sake of comparison, that the HLD Index uses different language when describing auto-qualifying conditions that are intended to include the specified value or measurement (e.g. "Anterior open bite: 2mm *or more*," "Crowding of 10 mm *or more*," "Two *or more* congenitally missing teeth," etc.).

<sup>3</sup> Appellant's mother argued that Appellant met the criteria for another auto-qualifying condition related to "trauma" which she asserted in this case was prolonged thumb-sucking that impacted development of her jaw. While the HLD Index identifies "severe traumatic deviations" (i.e. accidents affecting the face and jaw) as an auto-qualifying condition, this was not identified by Appellant's orthodontist as one of the grounds for the requested treatment. Specifically, it was not checked-off as an "observed" condition, nor was it referenced elsewhere in the PA paperwork. Therefore, there is no evidence to substantiate this argument for purposes of this appeal.

<sup>4</sup> Appellant can have her provider submit a new PA request to MassHealth every six-months upon re-examination until she reaches the age of 21.

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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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA