

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2207904
Decision Date:	1/20/2023	Hearing Date:	12/12/2022
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:



Appearances for MassHealth:

Dr. Harold Kaplan



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

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Prior Approval for Orthodonture
Decision Date:	1/20/2023	Hearing Date:	12/12/2022
MassHealth Rep.:	Dr. Harold Kaplan	Appellant Rep.:	Grandmother/Guardian
Hearing Location:	Board of Hearings, Quincy		

Authority

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

Jurisdiction

Through a notice dated September 28, 2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on October 19, 2022 (130 CMR 610.015(B); Exhibit 2). The Board of Hearings dismissed the appeal for failure to provide proper authorization to file the appeal, but vacated the dismissal when the necessary documentation was submitted (Exhibits 4 and 5). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the 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(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

MassHealth was represented at hearing by an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on September 28, 2022. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.¹ The provider's HLD Form indicates a total score of 27, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	7	1	7
Mandibular Protrusion in mm	1	5	5
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding ²	Maxilla: Yes Mandible: Yes	Flat score of 5 for each ³	10
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			27

The MassHealth representative testified that when DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18. The DentaQuest HLD Form reflects the following scores:

¹ The form also includes space for providers to indicate whether, regardless of score, a patient has one of the has one of the thirteen conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case did not allege the presence of an auto-qualifying condition and did not complete a medical necessity narrative. See Exhibit 6.

² The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores.

³ The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	1	3	3
Anterior Crowding	Maxilla: No Mandible: Yes	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			18

Because it found an HLD score below the threshold of 22, MassHealth denied the appellant's prior authorization request on September 28, 2022. See Exhibit 1.

In preparation for hearing hearing, the MassHealth representative completed an HLD Form based on a review of the photographs and X-rays submitted by the provider with the PA request. He determined that the appellant's overall HLD score was 20, calculated below:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: Yes Mandible: Yes	Flat score of 5 for each	10
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			20

The MassHealth representative testified that he did not see evidence of mandibular protrusion; rather, he found the opposite condition, as the upper molars are positioned ahead of the lower molars. He also found that the overjet and overbite were a bit less significant (by 2 mm each) than the provider recorded. He stated that he used the cephalometric (lateral) X-rays, along with the ruler that is superimposed on the side of the image, to measure the magnitude of the malocclusion. He acknowledged that the X-ray images in the file are small, and indicated that it is more difficult with a small X-ray to determine these measurements. He stated that there is “no question” the appellant needs orthodontic treatment, but that she does not qualify because her overall HLD score is below 22.

The appellant was represented at hearing by her grandmother, who is her legal guardian.⁴ She testified that the appellant complains that when she bites down her back teeth “catch the skin of her cheek.” In addition, she stated, the appellant has trouble chewing on the right side of her mouth because of jaw pain. The appellant’s grandmother testified that the appellant had teeth pulled in preparation for orthodontic treatment with a different orthodontist, but that orthodontist passed away and she had to switch to the current provider. She stated that the appellant’s teeth are “out of line” on the right side, “way above” the other teeth. She argued that the provider found well above 22 points on the HLD form, and that MassHealth’s score is just two points below that threshold.

The grandmother testified that her husband is in the hospital and that they live on a fixed income, with a mortgage and expenses associated with raising their two grandchildren as well as supporting their disabled daughter. She noted that MassHealth previously approved orthodontic treatment for her grandson, who has the “same mouth” as the appellant.

The appellant, who participated in the hearing with her grandmother, testified that her molars bite into her cheek when she eats, and that she has pain and discomfort with chewing. She added that her front teeth also sometimes hurt when she eats.

Findings of Fact

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

1. On September 28, 2022, the appellant’s orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 27.
3. The provider did not allege that the appellant has any of the thirteen conditions that would result in automatic approval, and did not provide a narrative to explain why orthodontic treatment is otherwise medically necessary.

⁴ The grandmother also submitted a detailed letter with the request for hearing, echoing much of her testimony. See Exhibit 2.

4. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18.
5. On September 28, 2022, MassHealth notified the appellant that the prior authorization request had been denied.
6. On October 19, 2022, the appellant filed a timely appeal of the denial.
7. In preparation for hearing on December 12, 2022, a MassHealth orthodontic consultant reviewed the provider's paperwork, finding an HLD score of 20.
8. The provider measured the appellant's overjet at 5 mm.
 1. The overjet is measured from the labial of the lower incisor to the labial of the upper incisor. It can apply to a protruding single tooth or the whole arch.
 2. The MassHealth orthodontists, using the photographs and X-rays, measured the overjet at 3 mm.
 3. The cephalometric X-ray reflects an overjet measurement consistent with the provider's finding of 5 mm.
9. The appellant's HLD score meets the threshold score of 22.

Analysis and Conclusions of Law

130 CMR 420.431(C) states, in relevant part, as follows:

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*.

Appendix D of the Dental Manual is the "MassHealth Handicapping Labio-Lingual Deviations Index" (HLD), which is described as a quantitative, objective method for measuring PA requests for comprehensive orthodontic treatment. The HLD allows for the identification of certain auto-qualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion.

MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, in two other circumstances: First, MassHealth will approve a request if there is

evidence of one or more auto-qualifying conditions: Cleft lip, cleft palate, or other cranio-facial anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated, excluding third molars; severe traumatic deviations; overjet greater than 9 mm; reverse overjet greater than 3.5 mm, crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding third molars; anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth, excluding third molars, of at least one tooth per quadrant; lateral open bite of 2 mm or more, of 4 or more teeth per arch; and anterior open bite of 2 mm or more, of 4 or more teeth per arch.

Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion;
- A diagnosed speech or language pathology caused by the patient's malocclusion; or
- 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:

- 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);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);

- discuss any treatments for the patient’s condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider’s justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant’s provider found an overall HLD score of 27. After reviewing the documents included with the provider’s submission, MassHealth calculated a score of 18. Upon review of the prior authorization documents, a different orthodontic consultant for MassHealth found the HLD score was 20.⁵

One of the areas where the scores of the provider and the MassHealth consultant differ is in the measurement of the overjet. The MassHealth Dental Office Reference Manual offers the following instructions on scoring the overjet: “[The overjet] is recorded with the patient in the centric occlusion and measured from the labial of the lower incisor to the labial of the upper incisor. The measurement could apply to a protruding single tooth as well as to the whole arch. The measurement is read and rounded off to the nearest millimeter and entered on the form.”

Here, the provider measured an overjet of 5 mm, while MassHealth found it was only 3 mm. At hearing, the MassHealth representative acknowledged that the copy of the cephalometric X-ray submitted by the provider was relatively small and difficult to read. However, the digital version of the records, which is in evidence, allows one to zoom in on the image and see the spacing more clearly. Using the ruler that is superimposed on the X-ray page as a measurement tool, it is apparent that the span between the labial of the lower tooth and the labial of the upper tooth is indeed 5 mm. With this adjustment to MassHealth’s score – even without regard to the other areas of dispute – the appellant’s total HLD reaches the threshold total of 22.

As the appellant has an HLD score of at least 22, she meets the criteria for MassHealth payment of comprehensive orthodontic treatment. This appeal is approved.

Order for MassHealth

Approve the prior authorization request dated September 28, 2022. Send notice of implementation to the appellant and provider.

⁵ The scores of the two MassHealth/DentaQuest reviewers differ only in how they scored a misaligned upper tooth. The original reviewer categorized this problem as an ectopic tooth, which warrants three points. The consultant who appeared at hearing instead looked at the tooth in the context of crowding in the upper anterior arch, and, accordingly, gave five points for anterior crowding. This was the correct approach, as the HLD form scoring instructions direct the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores. See note 2, *supra*.

Implementation of this Decision

If this decision is not implemented within 30 days after the date hereon, you should contact MassHealth. If you experience further problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, Office of Medicaid, at the address on the first page of this decision.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708