

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2207989
<b>Decision Date:</b>	12/7/2022	<b>Hearing Date:</b>	11/30/2022
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Mother

**Appearance for MassHealth:**  
Dr. Harold Kaplan, 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>	12/7/2022	<b>Hearing Date:</b>	11/30/2022
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote		

## 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 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 October 26, 2022 (130 CMR 610.015; Exhibit 2). Denial of a request for prior authorization is a valid ground for appeal (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 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. Kaplan, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Kaplan 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 and recorded a score of 20 points (Exhibit 1, p. 9). Appellant's orthodontic provider's HLD Form also indicates a deep impinging overbite which is an autoqualifying condition. A medical necessity narrative was not submitted with the request (Id., pp. 9-10). Dr. Kaplan testified that a DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 11 points, and indicated no autoqualifiers (Id., p. 15). Dr. Kaplan testified that he carefully reviewed and measured the photographs and X-rays and calculated a score of 14 points. Dr. Kaplan also testified that he carefully reviewed the photographs and found that Appellant has a deep overbite which is not impinging as there is no damage to the palatal tissue caused by the lower teeth (Exhibit 1, p. 12). Therefore, because the HLD score is below the required 22 points, and there is no evidence of a deep impinging overbite, MassHealth denied the request.

Appellant was represented by his mother who testified that Appellant has a complete overbite, and his front lower teeth are not visible when he bites down. She acknowledged that the lower teeth are not touching the palatal tissue yet, but will if he is not treated. She added that Appellant grinds his teeth, suffers from headaches, and has trouble sleeping because of his dental condition. Appellant's mother testified that a friend who is a retired orthodontist was surprised that the request for orthodontics was denied. Appellant's mother stated that Appellant's teeth should be treated now while they can be easily corrected rather than waiting for his condition to worsen.

## **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 and recorded a score of 20 points and indicated a deep impinging overbite.
3. Appellant's orthodontic provider's HLD Form does not include a medical necessity narrative.
4. A DentaQuest reviewing orthodontist and Dr. Kaplan completed the HLD measurements based on photographs and X-rays and arrived at scores of 11 points and 14 points, respectively.
5. Appellant has a deep overbite, without damage to the palatal tissue.

## 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) (emphasis added). Dr. Kaplan, a licensed orthodontist with many years of clinical experience testified that although Appellant has a deep overbite there is no evidence of soft tissue damage. I find Dr. Kaplan’s testimony credible, supported by the photographic evidence, and corroborated by Appellant’s mother. Because Appellant has a deep overbite without impingement and a HLD score less than 22 points as measured by Appellant’s orthodontist, a DentaQuest reviewing orthodontist, and Dr. Kaplan, Appellant’s condition does not meet the definition of a handicapping malocclusion at this time. Therefore, the appeal must be denied; however, the MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years of age, once per six (6) months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary and can be initiated before the member’s twenty-first birthday (130 CMR 420.421(C)(1)). Thus, Appellant can be reevaluated for comprehensive orthodontics, and submit a new prior authorization request 6 months after the last evaluation.

## 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