

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2208717

**Decision Date:** 1/20/2023

**Hearing Date:** 12/28/2022

**Hearing Officer:** Marc Tonaszuck

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, 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>	Orthodontics
<b>Decision Date:</b>	1/20/2023	<b>Hearing Date:</b>	12/28/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated 09/29/2022 MassHealth informed the appellant that it denied her request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). A timely appeal was filed on the appellant's behalf on 11/23/2022<sup>1</sup> (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated 04/07/2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

## **Action Taken by MassHealth**

MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment.

## **Issue**

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

## **Summary of Evidence**

The MassHealth orthodontic consultant, a licensed orthodontist from DentaQuest, testified that on 09/29/2022, the appellant's provider, Dr. Ghassemi, requested prior authorization (PA) for comprehensive orthodontic treatment on the appellant's behalf. The MassHealth representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. He testified that the orthodontic provider submitted a prior authorization request on behalf of the appellant, who is under 21 years of age (Exhibit 4). The request was considered after review of the oral photographs, X-rays, and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22. MassHealth submitted into evidence the appellant's PA request, including the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had an HLD score of 18, which did not reach the minimum score of 22 required for MassHealth payment of the orthodonture. The provider noted that there was no auto-qualifying situation indicated on the HLD Index form and no additional "medical necessity" documentation included with the request.

The MassHealth orthodontist testified that he reviewed the appellant's materials that were provided to MassHealth with the prior authorization request from his orthodontist. According to the photographs and X-rays, the MassHealth orthodontist testified that his review confirmed the provider's conclusion that the appellant's HLD score did not reach the score of 22 necessary for a determination that of a severe and handicapping malocclusion. He testified that there was no information provided to show that a different result is warranted. As a result, he upheld MassHealth's denial of the request for comprehensive orthodontic services.

The appellant's mother appeared at the fair hearing and she testified that she is not a doctor or an orthodontist, but she is concerned about the appellant's "small tooth" and the gaps between his teeth. She testified that the appellant is "not in pain when he eats," and he is getting proper nutrition through his meals. She concluded that she cannot afford to pay for the appellant's braces.

## **Findings of Fact**

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

1. The appellant is under 21 years of age (Testimony).
2. On 09/29/2022, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
4. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index.
5. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
6. The appellant's orthodontic provider provided an HLD score of 18, based on measurements she took of the appellant's malocclusion.
7. The appellant's orthodontic provider did not allege that the appellant had an automatic qualifying condition, nor did he attach a medical necessity narrative to the prior authorization request.
8. DentaQuest reviewed the treating orthodontist's submission and agreed with the appellant's treating orthodontist that the appellant's malocclusion did not meet MassHealth's requirements for payment for his comprehensive orthodontic treatment.
9. DentaQuest, on behalf of MassHealth, denied the appellant's request for comprehensive orthodontic treatment on 09/29/2022.
10. Using measurements taken from the appellant's oral photographs, X-rays and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant did not have a an HLD score of 22 or above or an automatic qualifying condition.
11. There was no other documentation of medical necessity for the comprehensive orthodontic treatment provided to MassHealth.

12. The MassHealth orthodontist concluded that the appellant does not have a severe and handicapping malocclusion.

## **Analysis and Conclusions of Law**

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

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22.

In this case, the appellant's treating orthodontist calculated an overall HLD Index score of 18, well below the threshold of 22 necessary for MassHealth payment for comprehensive orthodontics. The MassHealth representative testified that he agreed with the appellant's provider in that the HLD score did not reach or exceed a 22. In addition, he testified credibly that no other information was provided to show medical necessity. The appellant's mother testified that the appellant has some issues that may or may not be connected to his need for orthodonture; specifically, his "small tooth" and the gaps between his teeth. However, the appellant's provider, who was chosen by the appellant, indicated on the HLD Index form that there was no medical necessity documentation included with the PA request. It is the burden of the appellant (or her appeal representative) to show that there exists a medical necessity for the requested comprehensive orthodonture. The appellant's mother disagrees with MassHealth's denial solely because she wants her child to have braces. She has made no assertion that the appellant meets MassHealth's guidelines for payment of the comprehensive orthodontic treatment. Accordingly, there is nothing in the hearing record to show that the appellant's current situation meets MassHealth criteria for payment of braces. Therefore, 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA