

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2208727

**Decision Date:** 1/19/2023

**Hearing Date:** 01/09/2023

**Hearing Officer:** Alexis Demirjian

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan

**Interpreter:**



*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
<b>Decision Date:</b>	1/19/2023	<b>Hearing Date:</b>	01/09/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

## 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 November 3, 2022, MassHealth informed the Appellant that it denied his request for prior authorization of comprehensive orthodontic treatment. (Exhibit 4) The Appellant filed a timely appeal on November 22, 2022, and as a minor Appellant, was represented by his mother in these proceedings. (See 130 CMR 610.015(B); Exhibit 2).<sup>1</sup> Denial of a request for prior approval is a valid basis for appeal before the Board of Hearings. (See 130 CMR 610.032) A hearing in this matter was scheduled for December 28, 2022. (Exhibit 1, p.2). On December 28, 2022, a hearing was initiated on the matter but due to issues obtaining an interpreter the matter was rescheduled to January 9, 2023. (Exhibit 1, p.1, Exhibit 2). On January 9, 2023, an interpreter was secured, which allowed the Appellant's representative to participate fully in the proceeding held on that date.

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 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**

Whether MassHealth correctly determined that the Appellant is not eligible for comprehensive orthodontic treatment pursuant to 130 CMR 420.431(C).

## **Summary of Evidence**

The Appellant is a minor MassHealth member whose mother appeared at hearing via telephone. MassHealth was represented at hearing by an orthodontic consultant, from DentaQuest, the MassHealth dental contractor.

The MassHealth orthodontic consultant testified that the Appellant's provider requested prior authorization for comprehensive orthodontic treatment on November 3, 2022. (See Exhibit 5 and Testimony). The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. (See Testimony.)

The MassHealth orthodontic consultant testified that MassHealth utilizes the HLD Index to determine whether an individual's condition constitutes a severe and handicapping malocclusion. (Id.) The HLD includes a list of all the conditions that may exist in an individual's mouth and assigns points based on how the individual's dentition deviates from the norm, the greater the deviation the greater the score. (Id.) The HLD involves taking objective measurements from the subject's teeth to generate an overall numeric score, or to find an auto-qualifying condition. A severe and handicapping malocclusion typically reflects a minimum cumulative score of 22 or an auto-qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index. (Exhibit 5).

The MassHealth orthodontic consultant testified that the Appellant's orthodontic provider submitted a prior authorization request on the Appellant's behalf based on an examination. (See Testimony and Exhibit 5). The Appellant's orthodontic provider submitted oral photographs, x-rays, and written information with the request for the prior authorization. (Id.)

The MassHealth orthodontic consultant testified that according to the prior authorization request, the Appellant's orthodontic provider reported that the Appellant had a HLD score of 21, which did not reach the minimum score of 22 which is required for MassHealth payment of the orthodonture. (Id.). The provider noted that there was no auto-qualifying condition indicated on the HLD Index form and no additional "medical necessity" documentation included with the request. (Id.).

The MassHealth orthodontic consultant testified that he reviewed the materials that were provided to MassHealth with the prior authorization request from the Appellant's orthodontist. (See Testimony). After reviewing the photographs and X-rays, the MassHealth orthodontist consultant testified that his review confirmed the Appellant's provider's conclusion, which is that the Appellant's HLD score did not reach the minimum required score of 22. (Id.). He further testified that there was no evidence in the record to show that a different result is warranted. (Id.). Accordingly, the MassHealth orthodontic consultant upheld MassHealth's denial of the request for comprehensive orthodontic services. (Id.).

The Appellant's mother appeared by telephone and testified that the Appellant's orthodontist opined that the Appellant needs orthodontic treatment. (See Testimony). The Appellant's mother further stated that her son has been affected emotionally by the state of his teeth and that he will not take photographs or smile. In response to questioning from the Hearing Officer, the Appellant's mother indicated that her son is not currently seeing a counselor, but she is in the process of trying to get an appointment to help him deal with the situation.

## **Findings of Fact**

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

1. The Appellant is under 21 years of age. (Testimony; Exhibit 5)
2. On November 3, 2022, the Appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment. (Testimony; Exhibit 5)
3. On November 3, 2022, MassHealth denied the Appellant's prior authorization request. (Exhibit 3)
4. On November 22, 2022, a timely fair hearing request was filed on the Appellant's behalf. (Exhibit 3)
5. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
6. MassHealth employs a system of comparative measurements known as the HLD Index as a determinant of a severe and handicapping malocclusion.
7. An automatic qualifying condition on the HLD Index is a severe and handicapping malocclusion.
8. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
9. The Appellant's orthodontic provider provided an HLD score of 21, based on measurements he

took of the Appellant's malocclusion. (Testimony; Exhibit 5)

10. The Appellant's orthodontic provider did not allege that the Appellant had an automatic qualifying condition, nor was a medical necessity narrative submitted with the prior authorization request. (Testimony; Exhibit 5)
11. 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. (Testimony; Exhibit 5)
12. Appellant's orthodontist checked "no" when asked if he was submitting a medical necessity narrative with the prior authorization request. (Exhibit 4)
13. The MassHealth orthodontic consultant concluded that the Appellant does not have a severe and handicapping malocclusion. (Testimony)

## 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.<sup>2</sup>

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.

The HLD Form is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth has made a policy decision that a score of 22 or higher signifies a "severe and handicapping malocclusion," ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping: cleft lip, cleft palate, or other cranio-facial anomaly, impinging overbite with

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<sup>2</sup> The Dental Manual and Appendix D are available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited January 18, 2023.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"), available at: (Last <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdg> January 18, 2023)

evidence of occlusal contact into the opposing soft tissue, impactions where eruptions are impeded but extraction is not indicated (excluding third molars), overjet (greater than 9mm), reverse overjet (greater than 3.5mm), crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars), spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd 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 2mm or more of 4 or more teeth per arch, anterior open bite 2mm or more of 4 or more teeth per arch.

In this case, the Appellant's orthodontist calculated an overall HLD Index score of 21, 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 and no auto qualifying conditions exist. In addition, he testified credibly that no other information was provided to show medical necessity. The Appellant's mother did not dispute any of the testimony, except to say that the Appellant would benefit from orthodonture and is experiencing psychological distress related the state of his teeth.

Although the evidence in this case does not support a finding that MassHealth erred in its denial. MassHealth will pay for a re-evaluation every six months until the Appellant reaches the age of 21. After a reevaluation, the Appellant's provider may file a new request for prior authorization and may include additional evidence such as a note from a counselor or pediatrician that supports the argument that braces would be a medical necessity for the Appellant.

At present, there is nothing in the hearing record to show that the Appellant's current situation meets MassHealth criteria for payment of braces.

Accordingly, 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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Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA