

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2209584
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	03/27/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter



*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 – Orthodontia
<b>Decision Date:</b>	4/28/2023	<b>Hearing Date:</b>	03/27/2023
<b>MassHealth’s Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant’s Rep.:</b>	Father
<b>Hearing Location:</b>	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 November 23, 2022, MassHealth denied the appellant’s prior authorization request for orthodontia. (Exhibit 5, p. 3.) The appellant filed this appeal in a timely manner on December 27, 2022. (Exhibit 1, p. 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

This matter was originally scheduled for hearing on February 1, 2023. The appellant did not answer when called, and the appeal was dismissed. (Exhibit 2.) This hearing was scheduled subject to good cause for missing the original hearing. The appellant’s representative testified that he had to bring his son to the hospital due to an emergency at the time of the original hearing, which is why he was unavailable to answer the phone. Good cause was found, and this matter went forward on the merits.

## Action Taken by MassHealth

MassHealth denied the appellant’s prior authorization request for orthodontia.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that that comprehensive orthodontia was not medically necessary for the appellant.

## Summary of Evidence

The appellant's provider submitted a prior authorization request on the appellant's behalf seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations ("HLD") Form, with a total score of 20 points, but which claimed that a "Medical Necessity Narrative" was attached. Her orthodontist submitted a letter that explained the appellant has "a unilateral posterior crossbite and class II occlusion." Because of this, "she has a functional shift which can lead to skeletal asymmetry if not corrected at this growing age." She also had "upper and lower crowding," and alleged that "if we miss out on this growth phase, then her bite may worsen with time and may need more complex procedures in the future." (Exhibit 5, p. 8.)

DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant's HLD Score was 11. (Exhibit 5, p. 16.) At the hearing, Dr. Perlmutter testified that MassHealth only pays for orthodontia when the member's bite is sufficiently severe to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion." This scale looks at nine characteristics of a bite to measure how the teeth work. Many children may be appropriate for orthodontic care but do not meet MassHealth's definition of a physically handicapping bite. Dr. Perlmutter also found an HLD Score below 22 points, therefore no orthodontist found an HLD Score that qualified for coverage.

The appellant's father testified that his daughter is very shy to smile because of her teeth, and she is also undergoing speech therapy because her teeth are affecting her speech. Dr. Perlmutter explained that the appellant can be re-evaluated every six months, and she can have successful orthodontic treatment at any age. He explained that the submitted letter does not qualify as a Medical Necessity Narrative because it was submitted by an orthodontist for the purposes of correcting orthodontic concerns. These clinical concerns are otherwise captured by the HLD Form for the purposes of determining "handicapping malocclusions." A Medical Necessity Narrative must be submitted by a non-dental practitioner. Dr. Perlmutter suggested that a counselor or speech therapist could submit a letter explaining that orthodontia would be helpful to treat either her social/emotional well-being or her speech.

## Findings of Fact

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

1. The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found a total score of 20. (Exhibit 5, pp. 6, 8-15.)
2. MassHealth denied comprehensive orthodontia, finding only 11 points on the HLD scale. (Exhibit 5, pp. 3-5, 7, 16.)

3. The appellant's provider submitted a letter identifying aspects of the appellant's bite that could possibly require more difficult treatment if untreated at this time. No other letters were submitted addressing non-orthodontic concerns. (Exhibit 3, p. 8.)
4. The conditions described in the provider's letter are contemplated by the HLD Form, and the appellant could be successfully treated with orthodontia in the future if her bite worsens. (Testimony by MassHealth's representative.)

## **Analysis and Conclusions of Law**

MassHealth provides orthodontic services when it determines them to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.<sup>1</sup> (130 CMR 450.204.) Pursuant to 130 CMR 420.431(C)(3), MassHealth "pays for comprehensive orthodontic treatment ... 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." The regulations do not speak directly to what conditions qualify as "severe and handicapping" except to specifically cover "comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years." (130 CMR 420.431(C)(3).)

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 palate, deep impinging overbite, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than nine millimeters, or reverse overjet greater than 3.5 millimeters. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

HLD Form provides instructions for submitting a "Medical Necessity Narrative and Supporting Documentation":

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting

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<sup>1</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 April 24, 2023.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"), available at: <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>. (Last visited April 24, 2023.)

documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to 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.**

Providers may submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. Providers must submit this narrative in cases where the patient does not have an autoqualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.

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

- i. 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);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic

evaluation or treatment (if such a recommendation was made);

v. discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and

vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment. The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative.

(Exhibit 5, p. 11; ORM, Appendix B, p. B-2 (emphasis added).)

None of the orthodontists to review the appellant's bite found that it qualified under the HLD Scale. The submitted letter does not qualify as a Medical Necessity Narrative because it addresses orthodontic concerns that are contemplated within the HLD Scale, nor does it "discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s)." Dr. Perlmutter confirmed that the appellant can be treated effectively in the future if her bite worsens and she scores more than 22 points on the HLD Scale, or if a provider submits a Medical Necessity Narrative explaining a non-dental basis for approving orthodontia at this time. 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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Christopher Jones  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 2, MA