

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2300144
<b>Decision Date:</b>	4/4/2023	<b>Hearing Date:</b>	03/29/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Guardian

**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>	4/4/2023	<b>Hearing Date:</b>	03/29/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Guardian
<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 December 19, 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 January 6, 2023 (130 CMR 610.015; Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032). A hearing was scheduled for February 6, 2023, and at the appointed time Appellant did not appear. On February 5, 2023, Appellant requested in writing that the Board of Hearings reschedule the hearing stating that she confused dates due to multiple medical appointments (Exhibit 2A). A hearing subject to good cause was held on March 29, 2023, at which Appellant appeared (Exhibit 3).

## Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization 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. Harold 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 29 points (Exhibit 1, p. 8). Appellant's orthodontic provider scored 6 points for overjet, 3 points for posterior impaction, 7 points for overbite, and 8 points for labio-lingual spread. The provider's HLD Form does not record any autoqualifiers and does not include a medical necessity narrative (Exhibit 1, pp. 8-10). 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, with 6 points for overjet, 3 points for overbite, and 2 points for labio-lingual spread (Exhibit 1, p. 14). Dr. Kaplan testified that he carefully reviewed and measured the photographs and X-rays and calculated a score of 20 points. Dr. Kaplan testified that Appellant's orthodontic provider indicated 8 points for labio-lingual spread which he could not reconcile with his review of the photographs submitted. Dr. Kaplan stated that labio-lingual spread is determined by measuring the tooth that is most crowded in the arch. He added that in Appellant's case the labio-lingual spread represents only 3 points. Dr. Kaplan also testified that he reduced the HLD score by an additional 3 points because X-rays and photographs submitted with the request do not show a posterior impaction on the lower right 12-year molar, although it may develop in the future. Therefore, Dr. Kaplan measured a HLD score of 20 points, and upheld the denial. He also suggested that Appellant resubmit a prior authorization request in 6 months with updated X-rays and photographs.

Appellant's guardian testified that Appellant complains of pain due to his overbite. She added that Appellant needs braces due to his overbite and to correct his dentition.

## 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 and recorded a score of 29 points.
3. Appellant's orthodontic provider scored 6 points for overjet, 3 points for posterior impaction, 7 points for overbite, and 8 points for labio-lingual spread.
4. The provider's HLD Form does not record any autoqualifiers and does not include a medical necessity narrative.

5. A DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 11 points, with 6 points for overjet, 3 points for overbite, and 2 points for labio-lingual spread.
6. Dr. Kaplan reviewed and measured photographs and X-rays and calculated a HLD score of 20 points.
7. Labio-lingual spread is determined by measuring the tooth that is most crowded in the arch; in Appellant's case the labio-lingual spread represents 3 points.
8. X-rays and photographs submitted with the request do not show a posterior impaction on the lower right 12-year molar, although it may develop in the future.

## **Analysis and Conclusions of Law**

Regarding good cause for failure to appear at the previously scheduled hearing, Appellant's representative sufficiently demonstrated good cause (130 CMR 610.048(B), Exhibit 2A).

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. Appellant's orthodontic provider recorded a HLD score of 29 points, scoring 6 points for overjet, 3 points for posterior impaction, 7 points for overbite, and 8 points for labio-lingual spread. The provider's HLD Form does not record any autoqualifiers and includes no medical necessity narrative or supporting documentation related to medical necessity. A DentaQuest reviewing orthodontist scored 11 points, with 6 points for overjet, 3 points for overbite, and 2 points for labio-lingual spread. Dr. Kaplan, who is a duly licensed orthodontist with many years of clinical experience, calculated a score of 20 points. Dr. Kaplan testified that labio-lingual spread is determined by measuring the tooth that is most crowded in the arch, and in Appellant's case represents 3 points. Dr. Kaplan also reduced scoring by 3 points because X-rays and photographs submitted with the request do not show a posterior impaction on the lower right 12-year molar, although it may develop in the future. Dr. Kaplan's testimony is credible based on his years of clinical experience, and because his findings are supported by the evidence in the hearing record and corroborated by similar scoring reductions by the DentaQuest reviewing orthodontist who scored 2 points for labio-lingual

spread and no points for posterior impaction. Because Appellant's HLD score is below the required 22 points and no other conditions warranting approval have been identified, 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