

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2300459
<b>Decision Date:</b>	3/7/2023	<b>Hearing Date:</b>	02/27/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan DMD

**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>	PA-Dental Services
<b>Decision Date:</b>	3/7/2023	<b>Hearing Date:</b>	02/27/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan DMD	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (phone)	<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 December 28, 2022, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on January 16, 2023 (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied appellant's request for approval of the prior authorization for braces or full and comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

## Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his father. MassHealth was represented by Dr. Harold Kaplan, a board certified orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties testified

telephonically.

Dr. Kaplan testified that the MassHealth does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or “malocclusion” meets a certain high standard. It is not enough to say that the appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant’s orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant’s dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 12. (Ex. 4, p. 8). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 17 on the scale. (Testimony). DentaQuest reached a score of 16. (Ex. 4, p. 14).

Regardless of point total, it is also possible to qualify for orthodontic treatment if appellant has a condition deemed an automatic qualifier. Here, appellant’s provider found an automatic qualifier of an impinging overbite with evidence of occlusal contact into the opposing soft tissue was present. Dr. Kaplan testified he did not find an automatic qualifier was present and evidence submitted by DentaQuest also shows, in their review, no automatic qualifier was found.

Father of appellant testified that he believed the earlier his son received treatment the better and he didn’t want to wait for that treatment.

## **Findings of Fact**

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 2-4).
2. Neither the initial DentaQuest review nor the review testified to by Dr. Kaplan found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 14; Testimony).
3. Appellant’s provider submitted an HLD score of 12 points. (Ex. 4, p. 8).
4. Evidence was submitted by appellant’s orthodontist that appellant had an automatic qualifier applicable, namely an impinging overbite. (Ex. 4, p. 8).
5. Neither Dr. Kaplan nor DentaQuest found no auto qualifier present. (Testimony; Ex 4, p. 14).

6. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 9; Testimony).

## Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,<sup>1</sup> covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

420.431: Service Descriptions and Limitations: Orthodontic Services

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. ...

(C) Service Limitations and Requirements.

...  
(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime younger than 21 years old and **only when the member has a handicapping malocclusion**. The MassHealth agency determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual. ...

(Bolded emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an "auto qualifying" condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or

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<sup>1</sup> 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

(3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In this case, appellant's orthodontist indicated the presence of an automatic qualifier condition, namely an impinging overbite. (Ex. 4, p. 8). However, Dr. Kaplan testified that, even though appellant has an overbite, for which he received points on the HLD scale, it is not an impinging overbite. After careful review of the x-rays and photos of appellant's teeth, Dr. Kaplan testified the lower anterior (front) teeth have to be digging into tissue on the roof of the mouth causing indentations or ulcerations and he did not observe either of those conditions in appellant's mouth. Therefore, he found no auto qualifying condition to be present. (Testimony). DentaQuest, in its review, also found no auto qualifier present. (Ex. 4, p. 14). Dr. Kaplan's assessment, testimony, and explanation about how the overbite was not severe enough to satisfy the condition was logical and consistent with the evidence and his presence subjecting him to cross-examination gave his opinion greater weight.

Turning to the HLD scores to see if appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion, the MassHealth standard requires a current score of 22 on the HLD index. (Testimony). In this case, appellants orthodontist found a score of 12 points. (Ex. 4, p. 8). In his testimony, Dr. Kaplan found an HLD score of 17. (Testimony). The review by DentaQuest obtained a score of 16. (Ex. 4, p. 14). The record is clear that none of the three reviewing dentists who completed an HLD review, including the appellant's own orthodontic provider, found a score of 22 or more points needed for approval.

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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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA