Office of Medicaid
BOARD OF HEARINGS

Appellant Name and Address:

[redacted]

Appeal Decision:	Denied	**Appeal Number:**	2300766
Decision Date:	3/22/2023	**Hearing Date:**	03/08/2023
Hearing Officer:	Paul C. Moore		

Appellant Representative:
[redacted]

MassHealth Representative:
Carl Perlmutter, D.M.D., DentaQuest consultant (by telephone)

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

Appeal Decision:	Denied	**Issue:**	Prior Authorization, Comprehensive Orthodontic Treatment
Decision Date:	3/22/2023	**Hearing Date:**	03/08/2023
MassHealth Rep.:	Dr. Perlmutter	**Appellant Rep.:**	Mother
Hearing Location:	Board of Hearings (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 January 22, 2023, MassHealth denied the appellant's request for prior authorization (PA) for comprehensive orthodontic treatment because MassHealth determined that the appellant does not have a severe and handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage (130 CMR 420.431; Exh. 1). The appellant filed this appeal in a timely manner on January 31, 2023 (Exh. 2). A PA denial is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive orthodontic treatment.

Issue

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

Summary of Evidence

The appellant is a [redacted] MassHealth member who was represented at hearing by her mother, who testified telephonically. The MassHealth representative, an orthodontist consultant with DentaQuest (the contracted agent of MassHealth that makes the dental prior authorization determinations), testified that the appellant's orthodontist, Dr. Lakshmi Thalanki, submitted a PA request for comprehensive orthodontic treatment for the appellant on or about January 3, 2023. Dr. Thalanki completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form, submitting these to DentaQuest, along with photographs of the appellant's mouth and two radiographs (Exh. 3).

On the HLD Form, the orthodontist indicates whether the child has a cleft palate, deep impinging overbite, anterior impactions, severe traumatic deviations, an overjet greater than 9 millimeters, a reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters (mm.), collectively referred to as "autoqualifiers" (Testimony).

If any autoqualifiers are present, the request for orthodontic treatment is approved. If no autoqualifiers are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread, and posterior unilateral crossbite and gives each measurement a value based on the calculation worksheet on the HLD Form. An HLD score of 22 or over constitutes a severe and handicapping malocclusion (Testimony).

In the appellant's case, Dr. Thalanki indicated on the HLD Form she submitted to DentaQuest that the appellant has no autoqualifiers for treatment. Dr. Thalanki documented that for the appellant, she measured an overjet of 5 mm. (worth five points on the HLD Form), an overbite of 6 mm. (worth six points on the HLD Form), three teeth that erupted ectopically, or out-of-position (worth three points per tooth, or nine points total), and crowding of the appellant's anterior teeth on both the maxilla (upper arch) and mandible (lower arch), both in amounts exceeding 3.5 mm. (worth five points per arch on the HLD Form, or ten points total).[1] The total score calculated by Dr. Thalanki for the appellant on the HLD Form was 30 points (*Id*.).

The MassHealth representative testified that in order for MassHealth to cover orthodontic treatment, the member must have a severe and handicapping malocclusion. The MassHealth representative stated that an HLD score of 22 is the minimum score indicative of a severe and handicapping malocclusion, and this is noted on the HLD Form. He testified that based on his examination of the appellant's photos and radiographs, he measured an overjet of 4 mm. (worth four points on the HLD Form), an overbite of 3 mm. (worth three points on the HLD Form), crowding of the appellant's anterior teeth on the maxilla in an amount exceeding 3.5 mm. (worth five points on the HLD Form),

[1] The scoring instructions for the HLD Form specify for the category "ectopic eruption:" "Do not score teeth in this category if they are scored under maxillary or mandibular crowding." However, on the HLD Form for the appellant submitted to DentaQuest, Dr. Thalanki scored both categories, which was an error. Thus, the appellant's HLD score was overstated.

and a labio-lingual spread of 3 mm. (worth three points on the HLD Form). The total HLD score calculated for the appellant by the MassHealth representative was 15 points (Testimony).

The appellant's mother testified by telephone. The appellant's mother testified that the appellant is concerned about her bite, and it was recommended that she get comprehensive orthodontic treatment, or braces. The appellant's mother testified that she does not want to the appellant's bite to get worse (Testimony).

The MassHealth representative testified that the appellant may be re-examined by Dr. Thalanki every six months, and MassHealth will pay for a new orthodontic examination. If Dr. Thalanki believes comprehensive orthodontic treatment for the appellant is necessary at the next appointment, she can resubmit the PA request to MassHealth for a new decision (Testimony).

Findings of Fact

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

1. The appellant is a [redacted] MassHealth member (Exh. 3).

2. The appellant's orthodontist, Dr. Thalanki, submitted a PA request for comprehensive orthodontic treatment for the appellant in January, 2023 (Exh. 3).

3. Dr. Thalanki completed an Orthodontics Prior Authorization Form and a HLD Form, and submitted these along with photographs of the appellant's mouth and radiographs to DentaQuest (Ex. 3).

4. Dr. Thalanki documented that she measured an overjet of 5 mm. (worth five points on the HLD Form), an overbite of 6 mm. (worth six points on the HLD Form), three teeth that erupted ectopically, or out-of-position (worth three points per tooth, or nine points total), and crowding of the appellant's anterior teeth on both the maxilla (upper arch) and mandible (lower arch), both in amounts exceeding 3.5 mm. (worth five points per arch on the HLD Form, or ten points total) (Exh. 3).

5. Dr. Thalanki "double-scored" the appellant in the areas of ectopic eruption and anterior crowding, in error (*Id*.).

6. Dr. Thalanki did not submit a medical necessity narrative with her PA request (Exh. 3).

7. Dr. Thalanki located no autoqualifiers for treatment (*Id*.).

8. The MassHealth representative is an orthodontist who is licensed to practice dentistry in the Commonwealth of Massachusetts.

9. Based on his examination of the appellant's photos and radiographs, the MassHealth

representative measured an overjet of 4 mm. (worth four points on the HLD Form), an overbite of 3 mm. (worth three points on the HLD Form), crowding of the appellant's anterior teeth on the maxilla in an amount exceeding 3.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form) (Testimony).

10. Based on his examination of the appellant's photos and radiographs, the MassHealth representative calculated a total HLD score for the appellant of 15 points (Testimony).

11. An HLD score of 22 is the minimum score indicative of a severe and handicapping malocclusion (Testimony).

Analysis and Conclusions of Law

130 CMR 420.431 contains the relevant MassHealth regulation addressing how a MassHealth member may receive approval on a prior authorization request for comprehensive orthodontic treatment. The regulation reads as follows:

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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.
(B) Definitions.
(1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.
(2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.
(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.
(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.
(C) Service Limitations and Requirements.
(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six months per member,

and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's 21st birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.
(2) Interceptive Orthodontics.
(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.
(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion, including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.
(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.
(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. Comprehensive

orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one 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.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-day) basis for ongoing orthodontic maintenance and treatment beginning after the initial placement, and insertion of the orthodontic fixed and removable appliances. If a member becomes inactive for any period of time, prior authorization is not required to resume orthodontic treatment visits and subsequent billing, unless the prior authorization time limit has expired. The provider must document the number and dates of orthodontic treatment visits in the member's orthodontic record.

(5) Orthodontic Case Completion. The MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

(6) Orthodontic Transfer Cases. The MassHealth agency pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. Payment for transfer cases is limited to the number of treatment visits approved. Providers must submit requests using the form specified by MassHealth.

(7) Orthodontic Terminations. The MassHealth agency requires providers to make all efforts to complete the active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number.

(8) Radiographs. Payment for Cephalometric and radiographs used in conjunction with orthodontic diagnosis is included in the payment for comprehensive orthodontic treatment (see 130 CMR 420.423(D)). The MassHealth agency pays for radiographs as a separate procedure for orthodontic diagnostic purposes only for members younger than 21 years old if requested by the MassHealth agency.

(9) Oral/Facial Photographic Images. The MassHealth agency pays for digital or photographic prints, not slides, only to support prior-authorization requests for comprehensive orthodontic treatment. Payment for digital or photographic prints is included in the payment for comprehensive orthodontic treatment or orthognathic treatment. The MassHealth agency does not pay for digital or photographic prints as a separate procedure (see 130 CMR 420.413). Payment for orthodontic treatment includes payment for services provided as part of the pre-orthodontic treatment examination, unless the MassHealth agency denies the prior authorization request for interceptive or comprehensive orthodontic treatment. The MassHealth agency pays

for the pre-orthodontic treatment examination if prior authorization is denied for interceptive or comprehensive orthodontic treatment.

MassHealth uses the HLD Form as a tool to determine if a member has a severe and handicapping malocclusion. If a member does not have an autoqualifier, then measurements are taken of the member's overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower arch, labio-lingual spread, and posterior unilateral crossbite, and each measurement is given a value based on the calculation worksheet on the HLD Form. A HLD score of 22 is the minimum score which indicates a severe and handicapping malocclusion.

In the instant matter, the appellant's orthodontist, Dr. Thalanki, awarded the appellant a score of 30 points on the HLD Form. However, this score was premised on an error in scoring. Dr. Thalanki should not have scored the appellant in the category of anterior crowding in excess of 3.5 mm. on both arches, *and* in the category of ectopic eruption, per the HLD Form scoring instructions. Dr. Thalanki should have taken the higher of the two scores (10 points versus 9 points). Subtracting nine points from the HLD score of 30 yields 21 points – less than the required 22 points.

On the other hand, the MassHealth representative examined the radiographs and photographs of the appellant, and awarded the appellant a score of 15 points on the HLD Form.

I find the testimony and the measurements taken by the MassHealth representative to be more credible than those of Dr. Thalanki; the latter did not testify at hearing.

Based on the totality of the evidence, I conclude that the appellant does not have a severe and handicapping malocclusion. Because the appellant does not have a severe and handicapping malocclusion, MassHealth was correct in denying the PA request for comprehensive orthodontic treatment.

MassHealth's action is upheld, and the 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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: DentaQuest appeals representative