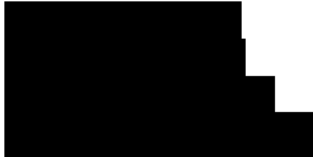


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2300998

**Decision Date:** 4/11/2023

**Hearing Date:** 03/13/2023

**Hearing Officer:** Paul T. O'Neill

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan, DentaQuest



*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 for orthodontic services
<b>Decision Date:</b>	4/11/2023	<b>Hearing Date:</b>	03/13/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South – 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 9, 2022, MassHealth denied the Appellant's request for prior authorization for orthodontic treatment because MassHealth determined that the appellant does not have a handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage. (130 CMR 420.431 and Exhibit 2). The Appellant filed this appeal in a timely manner on February 7, 2023. (130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization for coverage of 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 orthodontic treatment.

## Summary of Evidence

The Appellant is a child and was represented telephonically at the hearing by his mother. MassHealth was represented telephonically at the hearing by a Board-Certified orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes its dental prior authorization determinations. The Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on January 5, 2023. (Exhibit 4 p. 14). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the appellant's mouth. (Exhibit 4). The Appellant's orthodontist noted that a medical necessity narrative would not be submitted. (Exhibit 5, p. 11).

The MassHealth representative testified that MassHealth only covers orthodontic treatment when the member has a malocclusion that is severe, disfiguring or handicapping. The HLD form lists 13 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. (Exhibit 5, pp. 7 & 12). If a member has any of the 13 autoqualifiers or a verified HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Testimony, exhibit 4, pp. 7 & 12). The 13 autoqualifiers are a cleft lip/palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated (excluding 3<sup>rd</sup> molars); severe traumatic deviations; overjet greater than 9 millimeters; reverse overjet greater than 3.5 millimeters; crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> 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 3<sup>rd</sup> molars) of at least one tooth per quadrant; lateral open bite: 2 mm or more of 4 or more teeth per arch; and anterior open bite: 2 mm or more of 4 or more teeth per arch. (Exhibit 4, pp. 7 & 12). If any of these are present and verified upon review by DentaQuest, the request for orthodontic treatment is approved. (Exhibit 4, testimony). If none of these autoqualifying conditions are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread or anterior spacing, posterior unilateral crossbite, and posterior impactions or congenitally missing posterior teeth, and gives each measurement a numerical value based on the calculation worksheet on the HLD Form. (Exhibit 4, pp. 7 & 12, testimony).

The Appellant's orthodontist indicated that the Appellant had none of the 13 autoqualifiers. (Exhibit 4, p. 12).<sup>1</sup> The Appellant's orthodontist calculated an HLD score of 23, measuring 3 mm for overjet, 2 mm for overbite, 2 points for anterior open bite, 0 points for ectopic eruption, 10 points for anterior crowding, 2 points for labio-lingual spread, and 4 points for a posterior unilateral crossbite. (Exhibit 4, p. 12).

Based on a review of the records, photographs and x-rays of the Appellant's mouth submitted as

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<sup>1</sup> The MassHealth representative mistakenly testified that the Appellant's orthodontist had checked off that Appellant had three autoqualifiers, but later corrected his testimony. On the HDL form submitted those boxes are also checked "No" and mother confirmed that Appellant does not have any of the autoqualifiers.

part of the Appellant's Prior Authorization Request, DentaQuest calculated a HLD score of only 7 points, measuring 2 mm for overjet, 3 mm for overbite, 0 points for anterior open bite, 0 points for ectopic eruption, 0 points for anterior crowding, 2 points for labio-lingual spread, and 0 points for a posterior unilateral crossbite. (Exhibit 4, p. 7).

The MassHealth representative testified that he independently re-reviewed the Appellant's records, photographs and x-rays and carefully measured the appellant's teeth from the records prior to hearing. The MassHealth representative testified that based on his own review he calculated an HLD score of only 19 points, measuring 3 mm for overjet, 2 mm for overbite, 0 points for anterior open bite, 0 points for ectopic eruption, 10 points for anterior crowding, 2 points for labio-lingual spread, and 0 points for a posterior unilateral crossbite. (Testimony). The MassHealth representative's math is wrong and actually totals only 17 on the HLD scale, not 19 as he later confirmed unequivocally in his testimony that he scored 0 for Anterior Open Bite and also 0 for Posterior Unilateral Crossbite as the only places where Appellant's orthodontist went wrong with his HLD scoring. (Testimony).  $23 - 6 = 17$ , not 19. (Testimony, Exhibit 4, p. 12). The MassHealth representative testified that although his score of 19 was close, it was not 22, and that because Appellant's HLD score was not 22, he had to uphold DentaQuest's denial of prior authorization for orthodontics as correct. (Testimony).

The MassHealth representative stated that while the appellant would benefit from orthodontic treatment, the issue here is not whether the Appellant needs braces or would benefit from them, but rather whether he meets the criteria under the regulations for MassHealth to cover the cost of orthodontic treatment. The MassHealth representative stated that because there is insufficient evidence of a severe, disfiguring or handicapping malocclusion based on the HLD score, MassHealth will not cover the cost of orthodontic treatment at this time. (Testimony). The MassHealth representative advised the appellant's mother to go back to the orthodontist, 6 months after the last visit, to have the appellant re-evaluated to see if the HLD score increases.

The appellant's mother stated that she understood how the HLD formula works but that she felt that her son's orthodontist's score of 23 was verified by the orthodontist in person, and that because that exam was in person, it should be considered sufficient verification for MassHealth to pay for the orthodontic treatment. (Testimony). She added that she felt the HLD score was extremely close to the 22 required for coverage and questioned how the lower score of 19 as opposed to 23 could be considered verified, and control the outcome, when no one else conducted an in-person exam of her son. The MassHealth representative explained that the records he reviewed were in color, electronic, and submitted to DentaQuest in more detail so that he was able accurately re-review them and come to a lower score accurately. (Testimony).

## Findings of Fact

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

1. The Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant. (Exhibit 4, pp. 10-14).

2. The Appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these, along with photographs and x-rays of the appellant's mouth, to DentaQuest. (Exhibit 4, pp. 10-14).
3. The Appellant's orthodontist calculated an HLD score of 23 points with no autoqualifiers. (Exhibit 4, p. 12).
4. DentaQuest, the MassHealth vendor that handles prior authorizations, reviewed the Appellant's orthodontist's prior authorization request, and calculated an HLD score of 7 points after reviewing the photographs and x-rays submitted to it. (Exhibit 4, p. 7).
5. The MassHealth representative who testified at hearing and who was a Board-Certified orthodontist, re-reviewed the Appellant's previously submitted orthodontic records and determined a score of 0 for Anterior Open Bite and also 0 for Posterior Unilateral Crossbite as the only places where Appellant's orthodontist went wrong with his HLD scoring. (Testimony).
6. The Appellant's orthodontist calculated a score of 2 points for Anterior Open Bite and a score of 4 for Posterior Unilateral Crossbite totaling 6 points for these two categories. (Exhibit 4, p. 12).
7. Based on the MassHealth representative's review and his subtraction of the 6 points in these two categories from the Appellant's orthodontist's score of 23, Appellant's HLD score as determined at hearing is 17, not 19. (Exhibit 4, p. 12, testimony).
8. A HLD score of 22 is the minimum score indicative of the required handicapping malocclusion for which MassHealth will pay for orthodontic treatment.

## **Analysis and Conclusions of Law**

### *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 (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. 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 (3) 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 1st 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-days) 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 (5) 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. 130 CMR 420.431.*

MassHealth covers comprehensive orthodontic treatment if the MassHealth member evidences a handicapping malocclusion either by having one of the autoqualifiers listed on the HDL form or by meeting a HLD score of 22 or higher. Appendix D & F of the Dental Manual; 130 CMR 420.431. Comprehensive orthodontic treatment is also covered by MassHealth if it is medically necessary for the member as evidenced by a medical necessity narrative and supporting documentation. Appendix D & F of the Dental Manual; 130 CMR 420.431. The Appellant's orthodontist indicated on the HLD form he submitted that he was not submitting a medical necessity narrative. Exhibit 4,



p. 11. Therefore, the Appellant does not qualify for orthodontic treatment based on a medical necessity narrative. The Appellant's orthodontist also determined and indicated on the HLD form that the appellant had none of the autoqualifiers listed on the HLD form and at hearing Appellant's mother confirmed that Appellant did not have any of the autoqualifiers. Exhibit 4, p. 12, testimony. Therefore, Appellant does not qualify for orthodontic treatment based on any autoqualifiers.

The Appellant's orthodontist calculated an HLD score of 23, but DentaQuest, MassHealth's prior authorization reviewer, calculated an HLD score of only 7 upon review of the prior authorization form submitted, and the MassHealth representative at hearing, a Board-Certified orthodontist, testified credibly at hearing that he had re-examined the Appellant's photographs and x-rays in detail, and calculated a HLD score of 17. Findings of Fact Nos. 3-7. Both DentaQuest and the MassHealth representative that testified credibly at hearing calculated an HLD score below 22. Findings of Fact Nos. 4-7. Because the Appellant does not have any of the autoqualifiers, nor does he have a HLD score of 22 or higher, there is no evidence to support that the appellant has a handicapping malocclusion as required for MassHealth to pay for orthodontic treatment under the regulations. 130 CMR 420.432. Therefore, MassHealth was correct in denying the request for prior authorization for orthodontic treatment pursuant to 130 CMR 420.431. MassHealth's action is upheld, and the appeal is denied. MassHealth pays for orthodontic evaluation every six months, and Appellant may go back to the orthodontist six months after his last exam date, be re-examined, and have his orthodontist resubmit a new prior authorization request at that time. 130 CMR 420.431(C)(1).

## **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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Paul T. O'Neill  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest