

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2301080

**Decision Date:** 3/24/2023

**Hearing Date:** 03/15/2023

**Hearing Officer:** Marc Tonaszuck

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. David Cabeceiras, DentaQuest

**Interpreter:**

Spanish



*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>	Orthodontic Services
<b>Decision Date:</b>	3/24/2023	<b>Hearing Date:</b>	03/15/2023
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South		

## 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 01/10/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). The appellant filed this appeal in a timely manner on 02/09/2023 (see 130 CMR 610.015(B) and Exhibit 2)<sup>1</sup>. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared as the appeal representative at hearing via telephone. MassHealth was represented at hearing by Dr. David Cabeceiras, also by telephone, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider, Dr. Horowitz, submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays on 01/09/2023. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has an HLD score of 23, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	3	1	3
Mandibular Protrusion in mm	1	5	5
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	12	1	12
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0

<b>Total HLD Score</b>			<b>23</b>
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The appellant's orthodontist also identified an automatic qualifying condition; specifically, that the appellant has at least 10 mm of spacing on in either the maxillary or mandibular arch (excluding 3rd molars). The treating orthodontist did not include a medical necessity narrative with the PA request.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 8. The DentaQuest HLD Form reflects the following scores:

<b>Conditions Observed</b>	<b>Raw Score</b>	<b>Multiplier</b>	<b>Weighted Score</b>
Overjet in mm	2	1	2
Overbite in mm	2	1	2
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>8</b>

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 01/10/2023.

At hearing, Dr. Cabeceiras testified that the appellant has an HLD score of 9, as follows:

<b>Conditions Observed</b>	<b>Raw Score</b>	<b>Multiplier</b>	<b>Weighted Score</b>
Overjet in mm	2	1	2
Overbite in mm	2	1	2
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0

Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	5	1	5
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>9</b>

The MassHealth orthodontist also testified that there are no other automatic qualifying conditions. He concluded that his measurements do not support an HLD score of 22. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified with the assistance of a Spanish-language interpreter. She stated that the orthodontist recommended braces, primarily because of a space between the appellant's front top teeth. She describes them as being "very separated." The space makes the appellant uncomfortable and she is bullied by others in school. The mother admitted that the space is a "cosmetic" concern, not a medical one.

Dr. Cabeceiras responded that the space between the appellant's front teeth is 4 mm and was considered with his scores. There is not at least 10 mm of spacing on either arch. Even with the space, the appellant's HLD Index score did not reach 22 points.

## Findings of Fact

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

1. On 01/09/2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, calculated an HLD score of 23 points (Exhibit 4).
3. The appellant's orthodontic provider also indicated that the appellant has an automatic qualifying condition; specifically, that she has at least 10 mm of spacing on either the upper or lower arch (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization

request (Exhibit 4).

5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 8, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
7. On 01/10/2023, MassHealth notified the appellant that the PA request had been denied (Exhibits 1 and 4).
8. On 02/09/2023, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 03/15/2023, a fair hearing took place before the Board of Hearings.
10. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 9 (Testimony).
11. The appellant's HLD score is below 22.
12. The appellant has 5 mm of spacing on the upper arch and no spacing on the lower arch (Testimony).
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm. involving 4 or more teeth).

## **Analysis and Conclusions of Law**

130 CMR 420.431(C) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards for medical necessity as 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 severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant’s provider documented that the appellant has an HLD score of 23 and at least 10 mm of spacing on the upper arch, an automatic qualifying condition. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 8 and no automatic qualifying condition. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 9 and no automatic qualifying condition.

There are two primary differences between the treating orthodontist’s and the MassHealth orthodontist’s evaluation. First is the automatic qualifying condition of 10 mm of spacing on either arch. The appellant’s mother stated that her primary concern is the appellant’s space between her front, top two teeth. It appears that the providing orthodontist measured the space to be at least 10 mm. The MassHealth orthodontist testified that it is 5 mm.

The second difference between the scores is a mandibular protrusion that the treating orthodontist scored for 5 points (for 1 mm). At hearing, the MassHealth orthodontist testified that the appellant has no mandibular protrusion.

Appendix D of the *Dental Manual* scoring instructions for mandibular protrusion, states,

score exactly as measured from the buccal groove of the first mandibular molar to the MB cusp of the first maxillary molar. The measurement in millimeters is entered on the form and multiplied by 5.

In this case, the appellant’s treating orthodontist calculated an overall HLD Index score of 23, which included scores for overjet, overbite, mandibular protrusion, and 12 mm of labio-lingual spread. The MassHealth orthodontic consultant who testified under oath at the hearing calculated a HLD Index score of 9, measuring an overjet (2 points), an overbite (2 points), no mandibular protrusion (0 points), and 5 mm of labio-lingual spread (5 points).

The MassHealth orthodontist testified that the appellant’s orthodontist incorrectly measured the mandibular protrusion, resulting in an HLD score that exceeds 22. He

testified credibly that the appellant has no condition that can be scored as a mandibular protrusion using the above instructions. As a result, the provider's HLD score must be reduced by 5 points. Additionally, the labio-lingual spread measures 5 mm, further reducing the provider's score by 7 points. The MassHealth orthodontist demonstrated his measurements and evaluation to the hearing officer, using the photographs, X-rays and other documentation in the appellant's clinical record to support his determination that there is no mandibular protrusion. Although there were other measurements that differed by a millimeter or two, the mandibular protrusion score alone makes the difference between a score that exceeds 22 and one that does not.

The treating orthodontist's score of 5 points for mandibular protrusion is contrary to the instructions on the HLD scoring worksheet. Additionally, the labio-lingual spread is the measurement of the total spacing between the teeth on both arches. The appellant's provider indicated that the appellant has 12 mm of spacing, resulting in a labio-lingual spread score of 12, and an automatic qualifying condition. In addition to the corrected measurements, the MassHealth orthodontist testified credibly that the appellant's HLD score of 9.

MassHealth's measurements, evaluation and conclusion is supported by the relevant facts in the hearing record, the regulations and the instructions on the HLD Index Score Sheet. Using the accurate measurements, the MassHealth representative's score of 9 does not signify a severe and handicapping malocclusion. Additionally, there is no evidence of an automatic qualifying condition – the spacing is no more than 5 mm, not the 10 mm required. Thus, when the provider's score is corrected to comply with the instructions, the MassHealth representative could not find the appellant to have an HLD Index score at the level indicating a severe and handicapping malocclusion. There were no other medical circumstances submitted at the hearing which would affect this decision.

Appellant's mother testified that her concern about the appellant's teeth is "a cosmetic concern only," and not a medical one. While the appellant's dental condition may benefit from orthodontic treatment, the requirements of 130 CMR 420.431(E) are clear and unambiguous. MassHealth will cover orthodontic treatment "only" for members who have a "severe and handicapping malocclusion." Based on the information in evidence, the appellant's HLD Index score is below the threshold of 22 at this time, there is no automatic qualifying condition, and there is insufficient evidence to support a finding of a severe and handicapping malocclusion.

This appeal is therefore 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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA