

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2301361
<b>Decision Date:</b>	5/16/2023	<b>Hearing Date:</b>	03/29/2023
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**

 (Father)

**Appearance for MassHealth:**

Dr. Carl Perlmutter



*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 - Orthodontics
<b>Decision Date:</b>	5/16/2023	<b>Hearing Date:</b>	03/29/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	Father
<b>Hearing Location:</b>	Quincy		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through notice dated February 5, 2023, MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment (Exhibit A). Appellant filed this appeal in a timely manner on February 21, 2023 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by the Division

MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth acted correctly and pursuant to regulation in denying Appellant's request for comprehensive orthodontic treatment.

## Summary of Evidence

The MassHealth representative, a practicing orthodontist, testified that Appellant's request for comprehensive orthodontic treatment was considered in light of the written information provided in the prior authorization request form and oral photographs and X-rays submitted by Appellant's dental provider (Exhibit B). The information was then applied to a standardized HLD Index that is used to make an objective determination as to whether Appellant has a "severe and handicapping malocclusion." The MassHealth representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. The MassHealth representative testified that a severe and handicapping malocclusion reflects a minimum score of 22. He further testified that according to the prior authorization request, Appellant's own dental provider reported an overall score of only 20 (Exhibit B). The MassHealth representative testified that his own measurements taken from Appellant's oral photographs yielded an overall score of 15 and that MassHealth's reviewing agent, DentaQuest scored a 14.

The MassHealth representative further testified that Appellant's provider asserted the existence of two auto-qualifiers: A deep, impinging overbite and an impacted tooth. MassHealth disputed these findings noting that it is too early to determine whether the subject tooth is actually impacted or not. The MassHealth representative explained that due to Appellant's young age, the space still may be open and allow the tooth to properly drop into place. The MassHealth representative explained that the case can be reviewed again in the future once it becomes clear whether or not the tooth is actually impacted, but right now it is too early to tell.

Regarding the deep impinging overbite, MassHealth acknowledged that Appellant does have an overbite, but there is no evidence that it is deep and impinging. The MassHealth representative testified that a deep and impinging overbite is evidenced by the condition of the member's palate. A deep and impinging overbite will result in the lower front teeth striking and tearing into the flesh of the palate. This would be clearly visible in oral photographs, but the color photographs submitted by Appellant's provider show only healthy tissue on Appellant's palate and no signs that her lower teeth are striking the flesh of her palate.

Prior to hearing, Appellant's father submitted copies of Appellant's oral black and white photographs and the HLD scoring sheet (Exhibit C). Appellant's father testified that his daughter is in pain and her dental condition is causing bleeding. The father reviewed the oral photographs and X-rays noting that the front palate is rough. He also asserted that the overbite is causing the top teeth to strike the front lower gums and cause bleeding.

The MassHealth representative noted the irregular ridges on the front palate are typical rugae which are part of a normal and aid the tongue in the movement of food and with speech. They are not indicative of a deep and impinging overbite.

Appellant's father was advised that MassHealth will pay for orthodontic re-evaluations ever six months and orthodontic treatment can be covered up to the age of 21. The MassHealth representative urged Appellant's father to capture photographic evidence of the bleeding and tissue damage and submit it to Appellant's orthodontist who could then submit it along with a new prior authorization request.

## Findings of Fact

By a preponderance of the evidence, this record supports the following findings:

1. Appellant seeks prior authorization for comprehensive orthodontic treatment.
2. Appellant's request for comprehensive orthodontic treatment was considered in light of the written information provided in the prior authorization request form and oral photographs and X-rays submitted by Appellant's dental provider (Exhibit B).
3. The information was then applied to a standardized HLD Index that is used to make an objective determination as to whether Appellant has a "*severe and handicapping malocclusion.*"
4. The HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score.
5. A severe and handicapping malocclusion reflects a minimum score of 22.
6. Appellant's own dental provider reported an overall score of only 20 (Exhibit B).
7. MassHealth representative own measurements taken from Appellant's oral photographs yielded an overall score of 15 and MassHealth's reviewing agent, DentaQuest, scored a 14.
8. Appellant's provider also asserted the existence of two auto-qualifiers: A deep, impinging overbite and an impacted tooth.
9. Given Appellant's young age, space still may open and allow the subject tooth to properly drop into place; right now, it is too early to tell.
10. Appellant does have an overbite.
11. A deep and impinging overbite is evidenced by the condition of the member's palate.
12. A deep and impinging overbite will result in the lower front teeth striking and tearing into

the flesh of the palate.

13. The color photographs submitted by Appellant's provider show only healthy tissue on Appellant's palate and no signs that her lower teeth are striking the flesh of her palate.
14. Appellant's oral photographs and X-rays do not show that her front upper teeth strike her front lower gums.
15. Documentation submitted with the subject authorization request does not indicate that Appellant has a "severe and handicapping malocclusion."

## Analysis and Conclusions of Law

Regulations at 130 CMR 420.431 state in pertinent part (emphasis added):

*Service Descriptions and Limitations: Orthodontic Services:*

*(E) Comprehensive Orthodontic Treatment.*

*(1) The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and **only when the member has a severe and handicapping malocclusion.** The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the Dental Manual. The permanent dentition must be reasonably complete (usually by age 11). Payment covers a maximum period of two and one-half years of orthodontic treatment visits. Upon the completion of orthodontic treatment, the provider must take photographic prints and maintain them in the member's dental record.*

While Appellant may benefit in some measure from orthodontic treatment, the above-cited regulation is clear and unambiguous. MassHealth will cover orthodontic treatment "**only**" for recipients who have a "severe and handicapping malocclusion." Based on the informed and considered opinion of the MassHealth representative, who is a practicing orthodontist, and who examined Appellant's oral photographs and the other documentation submitted by the requesting dental provider, as well as the provider's own objective measurements indicating an HLD index score of 20, Appellant does not meet the requirements of 130 CMR 420.428(G) insofar as he does not have the minimum objective score of 22 to indicate the presence of a "severe and handicapping malocclusion."

Appellant's request also does not document the presence of a deep and impinging overbite as the colored oral photographs show no supportive signs such as sores, bleeding and/or tissue damage to her palate. The request also fails to establish that a tooth that has yet to descend is actually, at this time, impacted, insofar as it is too early to tell if the tooth will descend or not

given Appellant's young age and future development.

For the foregoing reasons, the appeal is DENIED.

If Appellant's dental condition should change/worsen, and her dental provider believes a severe and handicapping malocclusion can be documented, a new prior authorization request can be filed at that time.

## **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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA