

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2301951

**Decision Date:** 4/14/2023

**Hearing Date:** 04/10/2023

**Hearing Officer:** Patricia Mullen

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, 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>	Orthodontic treatment
<b>Decision Date:</b>	4/14/2023	<b>Hearing Date:</b>	04/10/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	Father
<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 February 27, 2023, 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. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on March 10, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 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 father. MassHealth was represented telephonically at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on February 23, 2023. (Exhibit 3, p. 3). 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 3). The appellant's orthodontist indicated on the HLD form that no medical necessity narrative was being submitted. (Exhibit 3, p. 10).

The MassHealth representative testified MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. The HLD form lists 13 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. (Exhibit 3, p. 9). If a member has any of the 13 autoqualifiers or a HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Testimony, exhibit 3, p. 9). 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 3, p. 9). If any of these are present, the request for orthodontic treatment is approved. (Exhibit 3, testimony). If none of these 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 value based on the calculation worksheet on the HLD Form. (Exhibit 3, p. 9, testimony).

The appellant's orthodontist indicated that the appellant has the autoqualifiers of overjet greater than 9 millimeters and anterior open bite of 2 millimeters or more of 4 or more teeth per arch. (Exhibit 3, p. 9). The appellant's orthodontist did not calculate a HLD score. (Exhibit 3, p. 9). Based on a review of the photographs of the appellant's mouth, MassHealth/DentaQuest calculated a HLD score of 14 measuring 6 millimeters for overjet, 2 millimeters for overbite, 1 millimeter of anterior open bite for a score of 4 points, and 2 points for labio-lingual spread. (Exhibit 3, p. 16). DentaQuest determined that the appellant did not have the autoqualifiers of overjet greater than 9 millimeters, or anterior open bite of 2 millimeters or more of 4 or more teeth per arch. (Exhibit 3, p. 16).

To satisfy the autoqualifier of anterior open bite, there must be 2 millimeters or more of spacing between the upper and lower incisors. (Exhibit 3, p. 9). Ectopic eruptions are not counted in determining the score for q

The MassHealth representative testified that he enlarged the appellant's photographs and x-rays and carefully measured the appellant's teeth. The MassHealth representative stated that the cephalometric x-ray was particularly accurate with regard to overjet as there is a measuring tool on the x-ray. (Exhibit 3, p. 15). The MassHealth representative stated that the appellant's overjet measures about 6 millimeters. (Exhibit 3, p. 15). The MassHealth representative noted further that in addition to 6 millimeters of overjet, the appellant has 2 millimeters of overbite, 1 millimeter of mandibular protrusion, and 2 millimeters for labio-lingual spread, for a total HLD score of 11.

The MassHealth representative noted that the appellant's upper 2<sup>nd</sup> bicuspid is not fully erupted and thus anterior open bite cannot be measured yet. (Exhibit 3, p. 12). The MassHealth representative stated that there is not 2 millimeters of space between the appellant's upper and lower incisors. (Exhibit 3, p. 12).

The MassHealth representative stated that the appellant would benefit from orthodontic treatment, but the issue here is not whether the appellant needs braces, but rather whether he meets the criteria under the regulations for MassHealth to cover the orthodontic treatment. The MassHealth representative stated that because there is no evidence of a handicapping malocclusion, MassHealth will not cover the orthodontic treatment at this time. The MassHealth representative advised the appellant's father to bring the appellant back to the orthodontist 6 months after his last visit to be re-evaluated.

In the appeal letter, the appellant's father noted that the appellant is teased and called names because of the appearance of his teeth. (Exhibit 2). The appellant's father noted that the appellant's front tooth is chipped because it protrudes out so far. (Exhibit 2). The appellant's father stated that the appellant is not in counseling at this time, but they are considering it. The appellant's father noted the difficulty in dealing with the psychological implications the teasing has on his son.

The appellant's father was advised that if the appellant does go to a counselor, the counselor's report should be included with the next prior authorization submission for orthodontic treatment. The appellant's orthodontist submitted the current request on February 23, 2023, so presumably that was the date of the appellant's last visit to the orthodontist. (Exhibit 3, p. 3). The appellant can go back to the orthodontist any time after August 23, 2023 for the re-evaluation to be covered by MassHealth. The appellant's father is advised to have the appellant's orthodontist submit a Medical Necessity Narrative from the appellant's counselor with the request. The Medical Necessity Narrative must be from the counselor and must speak to how the appellant's teeth affect him psychology and how orthodontic treatment would affect his condition.

The appellant's father is advised that if the next prior authorization request is approved, he should request an in person hearing at the Board of Hearings so that the DentaQuest orthodontist can examine the teeth.

## **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.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these along with photographs of the appellant's mouth to DentaQuest.
3. MassHealth/DentaQuest calculated an HLD score of 14 and the MassHealth representative calculated a HLD score of 11 after examining the appellant's photographs and x-rays.
4. The appellant's overjet measures 6 millimeters.
5. The appellant does not have spacing of 2 or more millimeters between his upper and lower incisors.
6. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion.

## **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.

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### **(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. 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. The appellant's orthodontist did not submit a Medical Necessity Narrative. The appellant's father was advised to have the appellant's orthodontist submit a Medical Necessity Narrative from the appellant's counselor with the next submission.

Despite the appellant's orthodontist's indication that the appellant has the autoqualifier of overjet greater than 9 millimeters, the MassHealth representative measured 6 millimeters on the appellant's cephalometric x-rays, which included a measurement device. The autoqualifier requires that the overjet be greater than 9 millimeters and thus the appellant does not meet the criteria for this autoqualifier. The appellant's orthodontist also indicated that the appellant has anterior open bite of 2 or more millimeters of 4 or more teeth per arch. The photographs of the appellant's teeth do not show spacing of 2 or more millimeters between the upper and lower incisors and thus the appellant does not meet criteria for this autoqualifier.

MassHealth determined the appellant's HLD score is less than 22. 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. MassHealth was correct in denying the request for prior approval pursuant to 130 CMR 420.431. 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.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest