

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302136
<b>Decision Date:</b>	6/8/2023	<b>Hearing Date:</b>	04/19/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**

 Mother

**Appearance for MassHealth:**

Dr. David Cabeceiras, D.M.D.

**Interpreter:** Sheri



*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>	6/8/2023	<b>Hearing Date:</b>	04/19/2023
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South 1 (Remote)	<b>Aid Pending:</b>	No

### 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 on or about January 25, 2023, MassHealth denied the Appellant's request for prior authorization for orthodontic treatment. (130 CMR 420.431; Exhibit 1). The Appellant filed this appeal in a timely manner on March 13, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the Appellant's request 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 her mother, who

testified through an interpreter.<sup>1</sup> MassHealth was represented telephonically by an orthodontic consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations.<sup>2</sup> On or about January 23, 2023, the Appellant's orthodontic provider submitted a request for prior authorization for orthodontic treatment on behalf of the Appellant. (Exhibit 6, p. 3). As part of this request, the Appellant's orthodontic provider 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 6, pp. 9-14). The Appellant's orthodontist did not indicate whether a medical necessity narrative would be submitted. (Exhibit 6, p. 13).

The MassHealth representative testified that MassHealth only covers the cost of orthodontic treatment if there is a severe problem (a handicapping malocclusion). In order to determine whether there is a handicapping malocclusion, a HLD Form is completed. The HLD Form lists (13) auto qualifiers and (9) characteristics with corresponding numerical values. The MassHealth representative explained that on the HLD Form, 22 points is needed for approval unless an auto qualifier is present.

The Appellant's orthodontic provider did not use the point system, rather, he found an auto qualifier was present, namely: Impactions where eruption is impeded but extraction is not indicated (excluding third molars). Upon examining the Appellant's mouth, the MassHealth representative explained that the Appellant does have two (2) teeth in her mouth that her orthodontic provider stated were impacted. However, this auto qualifier is specific in that members cannot have teeth removed to correct the problem. In the present case, the MassHealth representative testified that the Appellant will need to have some teeth removed at a later time. Therefore, this auto qualifier cannot be counted. As to meeting the threshold score of 22 points, the MassHealth representative testified that he calculated a score of 12 points. DentaQuest calculated a score of 12 points. (Exhibit 6, p. 8).

The Appellant's representative made inquiry as to whether the Appellant does not qualify. In response the MassHealth representative affirmed, explaining that there is not enough evidence at this time to overturn the denial. The MassHealth representative testified that the Appellant can be re-examined every six months until the age of 21, so long as she has the appropriate insurance coverage. The Appellant's representative inquired as to whether it will be more difficult to straighten the Appellant's teeth at a later time. In response, the MassHealth representative stated that, in accordance with the regulations, 22 points are needed unless an auto qualifier applies. The Appellant's representative inquired as to whether MassHealth would be willing to pay half of the costs. The MassHealth representative testified that MassHealth pays all or none of the costs and suggested that the Appellant's representative contact the orthodontic provider to see if alternative payments arrangements can be made. The Appellant's representative agreed to do so.

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<sup>1</sup> Due to an inadvertent error, the Appellant and her representative appeared at the hearing location in-person.

<sup>2</sup> The MassHealth representative was also present at the hearing location.

## **Findings of Fact**

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

1. The Appellant is a minor and MassHealth recipient. (Exhibit 3).
2. On or about January 23, 2023, the Appellant's orthodontic provider submitted a request for orthodontic treatment on behalf of the Appellant. (Exhibit 6, p. 3).
3. The Appellant's orthodontic provider completed an Orthodontic Prior Authorization Form and a HLD Form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth. (Exhibit 6, pp. 9-14).
4. The Appellant's orthodontic provider did not calculate a score on the HLD form. (Testimony; Exhibit 5, p. 12).
5. The Appellant's orthodontic provider found an auto qualifying condition present. (Testimony, Exhibit 5, p. 12).
6. This auto qualifying condition is specific in that members cannot have teeth removed to correct the problem. (Testimony).
7. Upon examination of the Appellant's mouth, the Appellant will need to have teeth removed. (Testimony).
8. DentaQuest calculated a HLD score of 12 points. (Exhibit 5, p. 8).
9. Upon examination and review of the photographs and x-rays that were submitted, the MassHealth representative calculated a HLD score of 12 points. (Testimony).
10. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion. (Testimony).
11. The Appellant's orthodontic provider did not submit any documentation related to whether treatment is medically necessary. (Exhibit 5, p. 13).

## **Analysis and Conclusions of Law**

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established

through a prior authorization process. (See, 130 CMR 450.204; 130 CMR 420.410). In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq,<sup>3</sup> covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. (See, 130 CMR 420.421 (A) through (C)).

130 CMR 420.431 contains the description and limitation for orthodontic services. With respect to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

420.431: 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....*

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. *The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime 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....*

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 5. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

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<sup>3</sup> 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the “*Dental Manual*” include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. (See, <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>).

In the present case, the Appellant's orthodontist found an auto qualifying condition present (Impactions where eruption is impeded but extraction is not indicated (excluding third molars)). However, this particular auto qualifying condition is specific in that members cannot have teeth removed to correct the issue. Upon examination of the Appellant's mouth, the MassHealth representative observed that the Appellant will need to have some of her teeth removed and therefore this auto qualifying condition is not applicable. As to medical necessity, the Appellant's orthodontic provider did not submit a medical necessity letter and documentation to justify the necessity for the prior authorization request. That leaves the reviewal of HLD scores to see whether the Appellant's malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. Here, the Appellant's orthodontic provider did not submit an HLD score. The two reviewing dentists, who completed the HLD review, did not calculate a score of 22 points or more that is needed for approval. As a result, there is no evidence to support that the Appellant has a handicapping malocclusion. This appeal is denied.<sup>4</sup>

## **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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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

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<sup>4</sup> This denial does not preclude the Appellant or the Appellant's orthodontic provider from submitting a new prior authorization request to MassHealth every six months upon re-examination until the Appellant reaches the age of 21, as suggested at the hearing. Further, the Appellant is encouraged to contact her orthodontic provider as suggested by the MassHealth representative.