

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302927
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	06/12/2023
<b>Hearing Officer:</b>	Marc Tonaszuck		

**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 Services
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	06/12/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center		

### 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 03/28/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf<sup>1</sup> on 04/12/2023 (see 130 CMR 610.015(B) and Exhibit 2)<sup>2</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> The appellant is a minor child who was represented in these proceedings by her mother.

<sup>2</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 at hearing in person as the appeal representative with the appellant. MassHealth was represented at hearing by Dr. Carl Perlmutter, also in person, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 03/22/2023. 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 22, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	3	1	3
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: 5 Mandible: 5	Flat score of 5 for each	10
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>22</b>
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The appellant's orthodontist did not identify any automatic qualifying condition, nor did she include a medical necessity narrative.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19. 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	6	1	6
Overbite in mm	5	1	5
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: X Mandible: 0	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
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>19</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 03/28/2023.

At hearing, Dr. Perlmutter obtained permission from the appellant's mother to physically examine his bite. He testified that the appellant has an HLD score of 17, as follows:

<b>Conditions Observed</b>	<b>Raw Score</b>	<b>Multiplier</b>	<b>Weighted Score</b>
Overjet in mm	4	1	4
Overbite in mm	5	1	5
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: X Mandible: 0	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
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>17</b>

The MassHealth orthodontist first testified that he could not find any evidence of mandibular (lower jaw) anterior crowding. He testified that points are given in this field when the front six teeth on the lower jaw have at least 3.5 mm of crowding. He testified that the materials provided to DentaQuest, and his physical examination of the appellant does not show at least 3.5 mm. Therefore, he could not give the appellant 5 points for mandibular crowding.

Without the score for mandibular anterior crowding (5 points), the appellant's HLD score does not reach the required 22 points. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified the appellant has "crooked jaw," and that when he chews food, his mouth "hurts." The appellant stated that when he yawns, he has a "tight pain" under his chin.

Dr. Perlmutter responded that the appellant's concerns are either addressed by the HLD score, or are not considered as part of the score. He stated that the appellant's provider did not provide documentation of medical necessity with the request.

## Findings of Fact

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

1. On 03/22/2023, 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 22 points. She did not indicate that any automatic qualifying

conditions exist (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 19, 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 03/28/2023, MassHealth notified the appellant that the prior authorization request was denied (Exhibits 1 and 4).
8. On 04/12/2023, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 06/12/2023, a fair hearing took place before the Board of Hearings (Exhibit 3).
10. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays. In addition, after obtaining permission from the appellant's mother, he physically examined the appellant's mouth, teeth and the way his teeth come together. MassHealth found an HLD score of 17 (Testimony).
11. The appellant does not have at least 3.5 mm of crowding among the bottom front six teeth (Testimony).
12. The appellant does not have a mandibular protrusion (Testimony).
13. The appellant's HLD score is below 22 (Testimony).
14. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, severe maxillary anterior crowding greater than 8 mm, impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm) (Testimony).

## **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, 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 (“automatic qualifying condition” or “autoqualifier”).

The appellant’s provider documented that the appellant has an HLD score of 22. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 19 and no automatic qualifying condition. As a result, MassHealth denied the request for comprehensive orthodontics. The appellant appealed to the Board of Hearings and a fair hearing took place, at which MassHealth was represented by an orthodontist. Both parties appeared in person.

In his testimony at the fair hearing, the MassHealth orthodontist testified he reviewed the prior authorization documents. He also obtained permission from the appellant’s mother and examined the appellant’s mouth, teeth, and bite. As a result of his examination and review of the documents, the MassHealth orthodontist testified that he found an HLD score of 17 and no automatic qualifying condition. The main difference between the appellant’s provider’s score and that of Dr. Perlmutter’s score is the scoring of the anterior crowding.

In order for the malocclusion to score in the category of anterior crowding, there must be at least 3.5 mm of crowding in the anterior (front) six teeth on either arch. The appellant’s orthodontist checked off that the appellant has at least 3.5 mm of crowding on both the top and the bottom arches, scoring 10 points (5 for each arch). Dr. Perlmutter testified that although the appellant has at least 3.5 mm of crowding in the anterior teeth of the maxillary (top) arch, there is not at least 3.5 mm of crowding in the six anterior teeth on the mandibular (lower) arch. Therefore, he could give only 5 points for anterior crowding, not 10, as documented by the treating orthodontist. He explained his scores to the appellant’s mother and to the hearing officer, referencing the photographs of the appellant’s teeth that were included with the PA request.

Dr. Perlmutter's score is supported by the photographs and other documents submitted with the PA request. Dr. Perlmutter, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative.

The appellant's mother testified credibly that the appellant might benefit from orthodonture; however, she was unable to show that the appellant met the requirements set out by MassHealth for approval for payment of the orthodonture. Accordingly, MassHealth's testimony is given greater weight. As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that she does not have a severe and handicapping malocclusion. Accordingly, MassHealth correctly denied this request for comprehensive orthodontic services and this 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA