

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



|                         |               |                       |            |
|-------------------------|---------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied        | <b>Appeal Number:</b> | 2303057    |
| <b>Decision Date:</b>   | 6/28/2023     | <b>Hearing Date:</b>  | 05/17/2023 |
| <b>Hearing Officer:</b> | Scott Bernard |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan *via* telephone



*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 (PA) Orthodontics |
| <b>Decision Date:</b>     | 6/28/2023           | <b>Hearing Date:</b>     | 05/17/2023                            |
| <b>MassHealth's Rep.:</b> | Dr. Harold Kaplan   | <b>Appellant's Rep.:</b> |                                       |
| <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 April 7, 2023, MassHealth denied the appellant's PA request for comprehensive orthodontic treatment because MassHealth determined that "...submitted documentation did not support the medical necessity of comprehensive orthodontic treatment [in that it] did not support [the] presence of an autoqualifying condition or a score greater than or equal to 22 on the HLD index [and] [d]ocumentation did not meet the DentaQuest clinical criteria for: comprehensive orthodontic treatment of the adolescent dentition[.]" (See 130 CMR 420.431, 450.204 and Exhibit (Ex.) 1; Ex. 5, pp. 3-5). The appellant filed this appeal in a timely manner on April 14, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant did not qualify for comprehensive orthodontic treatment.

## Summary of Evidence

The MassHealth representative stated the following. MassHealth does not usually pay for orthodontic services. MassHealth will only pay for these services if there exists a malocclusion that is severe, disfiguring, or handicapping. The question was not whether the appellant needs the treatment but whether he has malocclusions severe enough for MassHealth to pay. MassHealth determines the severity of malocclusions by using the Handicapping Labio-Lingual Deviations (HLD) formula. The HLD formula contains all the different conditions that can exist in the mouth and points are assigned to these conditions. The more abnormal a condition, the more points are given. In order for MassHealth to authorize payment, a patient would need to get at least 22 points. The treating orthodontist determined that the appellant had an HLD score of 31. (Ex. 5, p. 9). The initial MassHealth reviewer determined that the score was seven. (Ex. 5, p. 16). The MassHealth representative stated that he looked very closely at the submitted photographs and x-rays and determined that the score should be 17. (Ex. 5, pp. 12-14).

On points alone, the MassHealth representative stated that he would uphold the denial. The treating orthodontist also checked off that the appellant had a condition that would result in the appellant being automatically eligible. (Ex. 5, p. 9). The treating orthodontist asserts that the appellant had a lateral open bite of two millimeters or more of four or more teeth per arch. (Id.). The MassHealth representative stated that he did not see this, and that the most he could see was two teeth with a lateral open bite of two millimeters. The MassHealth representative stated that for these reasons the denial should be upheld.

The appellant's representative did not have questions for the MassHealth representative. The appellant's representative stated that she took him to different orthodontists who each told her that he has a posterior lateral crossbite on both his upper and lower jaws. The appellant is embarrassed by his condition and the appellant's representative stated that he should get braces.

## Findings of Fact

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

1. MassHealth does not usually pay for orthodontic services. (Testimony of the MassHealth representative).
2. MassHealth will only pay for these services if there exists a malocclusion that is severe, disfiguring, or handicapping. (Testimony of the MassHealth representative).
3. The question was not whether the appellant needs the treatment but whether he has malocclusions severe enough for MassHealth to pay. MassHealth determines the severity of malocclusions by using the HLD formula. (Testimony of the MassHealth representative).
4. The HLD formula contains all the different conditions that can exist in the mouth and

points are assigned to these conditions. (Testimony of the MassHealth representative).

5. The more abnormal a condition, the more points are given. In order for MassHealth to authorize payment, a patient would need to get at least 22 points. (Testimony of the MassHealth representative).
6. The treating orthodontist determined that the appellant had an HLD score of 31. (Ex. 5, p. 9). (Testimony of the MassHealth representative).
7. The initial MassHealth evaluator determined that the score was seven. (Ex. 5, p. 16). (Testimony of the MassHealth representative).
8. The MassHealth representative stated that he looked very closely at the submitted photographs and x-rays and determined that the score should be 17. (Testimony of the MassHealth representative; Ex. 5, pp. 12-14).
9. The treating orthodontist also checked off that the appellant had a condition that would result in the appellant being automatically eligible. (Ex. 5, p. 9).
10. The treating orthodontist asserts that the appellant had a lateral open bite of two millimeters or more of four or more teeth per arch. (Ex. 5, p. 9).
11. The MassHealth representative stated that he did not see this, and that the most he could see was two teeth with a lateral open bite of two millimeters. (Testimony of the MassHealth representative).

## **Analysis and Conclusions of Law**

130 CMR 420.431(B)(3) defines comprehensive orthodontic treatment as follows:

Comprehensive Orthodontic Treatment. 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. Comprehensive orthodontic treatment includes the transitional and adult dentition.

130 CMR 420.431(C)(3) describes the eligibility requirements for comprehensive orthodontic treatment, as follows:

(3) Comprehensive Orthodontics. 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 clinical standards for medical necessity as described in Appendix D of the Dental Manual...

The MassHealth agency pays for the office visit, radiographs and a record fee of the preorthodontic 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 and any adjustments (treatment visits) occurring in the calendar month of 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 age 21...

Appendix D of the MassHealth Dental Manual is the Authorization Form for Comprehensive Orthodontic Treatment, MassHealth Handicapping Labio-Lingual Deviations Index, 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 also approves prior authorization requests for comprehensive orthodontic treatment when the member has one of the "auto qualifying" conditions described by MassHealth in the HLD Index.

The record shows by the preponderance of the evidence that the appellant does not qualify for comprehensive orthodontic treatment. The treating orthodontist asserted that the appellant had an auto-qualifying condition as well as an HLD score of 31. The initial MassHealth reviewer calculated an HLD score of 7. The MassHealth representative testified that the appellant had an HLD score of 17. Neither the first DentaQuest orthodontist nor the MassHealth representative discerned any auto-qualifying condition although. The weight of the evidence therefore does not currently support approving orthodontic treatment.

For the above stated reasons, 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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

DentaQuest 1, MA