

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2303180
<b>Decision Date:</b>	7/17/2023	<b>Hearing Date:</b>	05/17/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**

*Via telephone*



**Appearance for MassHealth:**

*Via telephone*

Dr. Harold Kaplan, 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>	7/17/2023	<b>Hearing Date:</b>	05/17/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South 3 (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 March 15, 2023, MassHealth denied the Appellant's prior authorization request for orthodontic treatment. (130 CMR 420.431; Exhibit 1). The Appellant filed this appeal in a timely manner on April 17, 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. MassHealth was represented telephonically by an orthodontic consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The Appellant's orthodontic provider submitted a request for prior authorization for orthodontic treatment for the Appellant on February 28, 2023. (Exhibit 5, p. 10). 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 to DentaQuest, along with photographs and x-rays of the Appellant's mouth. (Exhibit 5, pp. 7-13). The Appellant's orthodontic provider noted that a medical necessity narrative would not be submitted. (Exhibit 5, p. 9).

The MassHealth representative testified that while the Appellant would benefit from orthodontic treatment, the issue here is not whether the Appellant needs braces, rather the issue is whether she meets the pertinent criteria, in accordance with the regulations, for MassHealth to cover the orthodontic treatment. The MassHealth representative explained that, pursuant to the regulations, MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. To determine the presence of a handicapping malocclusion, MassHealth requires providers to complete the HLD Form which captures the objective measurements of various characteristics of the member's teeth, such as crowding, overbite and overjet. Each characteristic is assigned a numerical score based on the measurement and the total of these scores represents the degree to which a case deviates from normal alignment and occlusion. MassHealth considers a malocclusion to be "physically handicapping" if the individual's HLD score totals at least 22 points or if the particular characteristic of the individual's bite is so severe that it falls into one of the several enumerated "auto-qualifying" conditions, as outlined in the HLD Form. MassHealth will also consider alternative bases for coverage when the request contains a clinical narrative and documentation establishing medical necessity.

The Appellant's orthodontic provider did not find that an auto-qualifier was present. (Exhibit 5, p. 8). Further, as stated above, the Appellant's orthodontic provider noted that a medical necessity narrative would not be submitted. (Exhibit 5, p. 9). With respect to the HLD Form submitted on behalf of the Appellant, the Appellant's orthodontic provider calculated a score of 20 points. (Exhibit 5, p. 8). Upon review, DentaQuest calculated a score of 11 points. (Exhibit 5, p. 14). The MassHealth representative examined the Appellant's dental records and calculated a score of 18 points.

The Appellant's representative testified that she mailed the Appellant's prior dental records via certified mail on May 9, 2023.<sup>1</sup> She explained that the dental records that she mailed included x-rays that were taken of the Appellant's mouth in 2021 and 2022. The Appellant's representative further explained that the Appellant has been going to the same dental office for years. With respect to the Appellant's first orthodontic provider, he suggested that the Appellant wait before he submitted a prior authorization request for orthodontic treatment. That same dentist then

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<sup>1</sup> As of the hearing date, the Appellant's previous dental x-rays were not received.

moved out of the country. The Appellant now sees a different provider within the same office. The Appellant's representative testified that when you compare the HLD scores however and combine them, the combined total amounts to 22 points.

In response, the MassHealth representative explained that the biggest discrepancy between the calculation of scores could be found within the category titled "Anterior Crowding." Anterior crowding can occur in the upper and/or lower anterior region and there must be at least 3.5 millimeters of crowding in each region. If there is at least 3.5 millimeters of crowding found in each region, the maximum score that could be calculated is 10 points (5 points for each region). Here, the Appellant's orthodontic provider calculated a score of 10 points in this category. DentaQuest did not find any crowding in its HLD review. The MassHealth representative found at least 3.5 millimeters of crowding in the upper region in his review. However, he did not find at least 3.5 millimeters of crowding in the lower region and as a result, only calculated 5 points in this category. The Appellant's representative testified that she sees a total of 22 points when you combine the HLD reviews. The MassHealth representative explained that scores cannot be combined and suggested that the Appellant reach out to her orthodontic provider to have him explain his scoring.

## **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 February 28, 2023, the Appellant's orthodontic provider submitted a request for orthodontic treatment for the Appellant. (Exhibit 5, p. 10).
3. The Appellant's orthodontic provider completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth. (Exhibit 5, pp. 7-13).
4. The Appellant's orthodontic provider calculated a score of 20 points. (Exhibit 5, p. 8).
5. DentaQuest calculated a score of 11 points. (Exhibit 5, p. 14).
6. After reviewing the Appellant's photographs and x-rays that were submitted, the MassHealth representative calculated a HLD score of 18 points. (Testimony).
7. A HLD score of 22 points is the minimum score indicative of a handicapping malocclusion. (Testimony).

8. The Appellant's orthodontic provider did not submit any documentation indicating that the Appellant had any auto-qualifiers present, nor was there any documentation submitted pertaining to whether treatment was medically necessary. (Testimony; Exhibit 5, pp. 8-9).

## 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>2</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:

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<sup>2</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>).

- (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.

Here, the Appellant’s orthodontic provider did not indicate the presence of an auto-qualifying condition. Moreover, the Appellant’s orthodontic provider did not submit a medical necessity narrative 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 record is clear that not any of the three (3) reviewing dentists who completed a HLD review, including the Appellant’s own orthodontic provider, found a score of 22 or more points that is needed for approval. As a result, there is no evidence to support that the Appellant has a handicapping malocclusion. MassHealth was correct in denying this request, pursuant to 130 CMR 420.431. This appeal is denied.<sup>3</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

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<sup>3</sup> This denial does not preclude the Appellant or the Appellant’s dental provider from submitting a new prior authorization to MassHealth every six months upon re-examination until she reaches the age of 21. The Appellant is also encouraged to make inquiry to her dental provider about his HLD scoring, as suggested by the MassHealth representative at the hearing.

Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 2, MA