

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



|                         |              |                       |            |
|-------------------------|--------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied       | <b>Appeal Number:</b> | 2303485    |
| <b>Decision Date:</b>   | 6/2/2023     | <b>Hearing Date:</b>  | 05/31/2023 |
| <b>Hearing Officer:</b> | David Jacobs |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. David Cabeceiras for 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>            | Prior Authorization - Orthodontics |
| <b>Decision Date:</b>     | 6/2/2023             | <b>Hearing Date:</b>     | 05/31/2023                         |
| <b>MassHealth's Rep.:</b> | Dr. David Cabeceiras | <b>Appellant's Rep.:</b> | Pro se, [REDACTED]                 |
| <b>Hearing Location:</b>  | Remote               |                          |                                    |

### 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 13, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed this appeal in a timely manner on April 28, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization is a valid basis for appeal (see 130 CMR 610.032).

### 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 within its discretion in determining that the appellant is ineligible for comprehensive orthodontic treatment.

### Summary of Evidence

The appellant, a minor under the age of 21, appeared telephonically alongside his mother. The MassHealth representative, a licensed orthodontist, appeared telephonically for MassHealth on behalf of DentaQuest, the MassHealth dental contractor. Below is a summary of each party's testimony and the information submitted for hearing:

The appellant's orthodontic provider ("the provider") submitted a prior authorization request for comprehensive orthodontic treatment to DentaQuest on behalf of the appellant on April 10, 2023. This request included the appellant's X-rays, photographs, and a completed MassHealth Handicapping Labio-Lingual Deviations (HLD) Form (Exhibit 4).

MassHealth will only provide coverage for comprehensive orthodontic treatment for members who have a "severe, handicapping, or deforming" malocclusion. Such a condition exists when the applicant has either (1) dental discrepancies that result in a score of 22 or more points on the HLD Form, as detailed in the MassHealth Dental Manual, or (2) evidence of a group of exceptional or handicapping dental conditions. If the applicant meets any of these qualifications, MassHealth, through DentaQuest, will approve a request for prior authorization for comprehensive orthodontic treatment. Alternatively, a provider, such as the applicant's primary care physician or pediatrician, can submit a narrative and supporting documentation detailing how the treatment is medically necessary.

In this case, the appellant's provider submitted a HLD score of 22, and indicated that the appellant auto-qualifies for treatment because he has an impinging overbite with evidence of occlusal contact into the opposing soft tissue (Exhibit 4). The Provider's HLD Form reflect the following scores:

| <b>Conditions Observed</b>                                   | <b>Score</b> |
|--|--------------|
| Overjet in mm  | 4            |
| Overbite in mm   | 8            |
| Mandibular Protrusion in mm                                  | 0            |
| Open Bite in mm  | 0            |
| Ectopic Eruption (# of teeth, excluding third molars)        | 0            |
| Anterior Crowding  | 10           |
| Labio-Lingual Spread, in mm (anterior spacing)               | 0            |
| Posterior Unilateral Crossbite                               | 0            |
| Posterior impactions or congenitally missing posterior teeth | 0            |
| <b>Total HLD Score</b>                                       | <b>22</b>    |

(Exhibit 4). When DentaQuest initially evaluated this prior authorization request on behalf of

MassHealth, its orthodontists did not find any of the conditions that would warrant automatic approval of comprehensive orthodontic treatment and determined that the appellant has an HLD score of 17. The DentaQuest HLD Form reflects the following scores:

| <b>Conditions Observed</b>   | <b>Score</b> |
|--|--------------|
| Overjet in mm  | 4            |
| Overbite in mm   | 5            |
| Mandibular Protrusion<br>in mm                                     | 0            |
| Open Bite in mm  | 0            |
| Ectopic Eruption (# of<br>teeth, excluding third<br>molars)        | 0            |
| Anterior Crowding  | 5            |
| Labio-Lingual Spread,<br>in mm (anterior<br>spacing)               | 3            |
| Posterior Unilateral<br>Crossbite                                  | 0            |
| Posterior impactions or<br>congenitally missing<br>posterior teeth | 0            |
| <b>Total HLD Score</b>   | <b>17</b>    |

(Exhibit 4). Having found an HLD score below the threshold of 22, no auto-qualifying conditions, and no medical necessity, MassHealth denied the appellant's prior authorization request (Exhibit 4).

At hearing, the MassHealth representative testified that based on careful review of the x-rays and photographs he found an HLD score of 17, and disagreed with the provider's evaluation that the appellant had an impinging overbite with evidence of occlusal contact into the opposing soft tissue. He testified that the photos and x-rays submitted by the appellant's provider show that there is crowding in the lower arch, but not enough crowding in the upper arch to reach a score of 10 for anterior crowding. Furthermore, he testified that the appellant does not have an impinging overbite because the appellant's bottom teeth are touching the upper teeth, not the opposing soft tissue as MassHealth requires.

The appellant's mother appeared with her son telephonically. She testified that her son complains of jaw and tooth pain when he eats his food due to his bad bite. The appellant confirmed this and added that when he bites down there is a clicking sensation that is painful. Furthermore, the mother disagreed with the consulting orthodontist and said her son's bottom teeth do indeed touch the soft pallet of the top of his mouth.

## **Findings of Fact**

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

1. The appellant's provider requested prior authorization for comprehensive orthodontic treatment and submitted an Orthodontics Prior Authorization Form, an HLD Form, photographs and x-rays.
2. The provider found that the appellant possesses an auto-qualifying condition of an impinging overbite with evidence of occlusal contact into the opposing soft tissue, found an HLD score of 22, and declined to submit a medical necessity narrative.
3. On April 13, 2023, MassHealth denied the appellant's prior authorization request, as DentaQuest found an HLD score of 17 and did not agree that there was evidence of any auto-qualifying condition.
4. The appellant timely appealed the denial to the Board of Hearings.
5. The MassHealth representative testified to finding an HLD score of 17 with no exceptional handicapping dental condition.
6. The MassHealth representative testified that based on the submitted photos and x-rays that the appellant's there was crowding in lower arch, but not enough crowding in the upper arch for an HLD score of 10 points.
7. The MassHealth representative testified that based on the submitted photos and x-rays that the appellant's lower teeth were not touching the opposing soft tissue.

## **Analysis and Conclusions of Law**

MassHealth pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. 130 CMR 420.410(A)(1). A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to MassHealth.

130 CMR 450.204(A). Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment codified at 130 CMR 420.000 and in the MassHealth *Dental Manual*. Specifically, 130 CMR 420.431(C)(3) states, in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, only 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*.

Those clinical standards for medical necessity are met when (1) the member has one of the “auto-qualifying” conditions described by MassHealth in the HLD Form,<sup>1</sup> (2) the member meets or exceeds the threshold score designated by MassHealth on the HLD Form, or (3) comprehensive orthodontic treatment is otherwise medically necessary for the member, as demonstrated by a medical-necessity narrative and supporting documentation submitted by the requesting provider. *See generally*, Appendix D of the *Dental Manual*. In such circumstances, MassHealth will approve payment for comprehensive orthodontic treatment. 130 CMR 420.431(C)(3).

Appendix D of the *Dental Manual* includes the HLD form, which is described as “a quantitative, objective method for evaluating [prior authorization] requests for comprehensive orthodontic treatment.” Appendix D at D-1. The HLD form allows for the identification of those auto-qualifying conditions and also provides the method for discerning a single score, “based on a series of measurements, which represent the presence, absence, and degree of handicap.” *Id.* MassHealth will authorize treatment for cases with verified auto-qualifiers or verified scores of 22 and above. *Id.* at D-2.

Providers may also establish eligibility for comprehensive orthodontic treatment by submitting a medical necessity narrative from a physician that indicates that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate certain medical or dental conditions. *Id.* at D-3-4.

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<sup>1</sup> Auto-qualifying conditions include cleft palate, severe traumatic deviation, severe maxillary or mandibular crowding or spacing, deep impinging overbite, anterior impaction, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm, anterior or posterior crossbite of 3 or more maxillary teeth per arch, 2 or more of at least one congenitally missing tooth per quadrant, and anterior or lateral open bite of 2mm or more or 4 or more teeth per arch. Appendix D at D-2 and D-5.

While a MassHealth member may benefit from orthodontic treatment, the regulations clearly limit eligibility for such treatment to patients with handicapping malocclusions. 130 CMR 420.431(C)(3). As such, the appellant bears the burden of showing that she has an HLD score of 22 or higher, an auto-qualifying condition, or that the treatment is otherwise medically necessary. She has failed to do so.

The MassHealth representative's sworn testimony is that his review of the appellant's records results in a HLD score below the required 22 points. He credibly explained that although there was crowding in the lower arch, there was not enough crowding in the upper arch to result in 10 points on the HLD form. The appellant's mother compassionately testified about the jaw and tooth pain her son experiences, but did not give specific testimony about how the MassHealth representative was incorrect about the crowding in the upper arch. Furthermore, the MassHealth representative credibly explained that he did not find the same auto-qualifying condition as the provider because the appellant bottom teeth are touching the top teeth and not the opposing soft pallet. Although the appellant's mother testified that her son's bottom teeth touch the opposing soft pallet, the photos and x-rays submitted by the appellant show the appellant's lower teeth touching the upper teeth, not the soft tissue as required by MassHealth. Only the appellant's records were submitted as evidence and the provider orthodontist did not testify at hearing. Further, the appellant's provider did not submit a medical necessity narrative. MassHealth was thereby within its discretion to deny the appellant's request for prior authorization for comprehensive orthodontic treatment. This appeal is denied.

If the appellant's dental condition should worsen or her orthodontist is able to provide the necessary documentation to demonstrate that the treatment is medically necessary, a new prior authorization request can be filed at that time.

#### **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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David Jacobs  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA