

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2303626
<b>Decision Date:</b>	6/22/2023	<b>Hearing Date:</b>	06/05/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**



**Appearance for MassHealth:**


Dr. Harold Kaplan, D.M.D

**Interpreter:**



*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>	PA-Dental Services
<b>Decision Date:</b>	6/22/2023	<b>Hearing Date:</b>	06/05/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Quincy Harbor South 2	<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 April 20, 2023, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on May 3, 2023. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied appellant's request for approval of the prior authorization for braces or full and comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

### Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by her father. MassHealth was represented by Dr. Harold Kaplan, a board-certified orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties appeared in person in Quincy.

Dr. Kaplan testified that MassHealth does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 25. (Ex. 4, p. 9). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 20 on the scale. (Testimony). DentaQuest reached a score of 19. (Ex. 4, p. 15). Dr. Kaplan testified that the difference in his score on the HLD and appellant's orthodontist's score involves Overbite and Anterior Crowding. Dr. Kaplan only found a measurement of 5 millimeters for the appellant's Overbite. (Testimony). Appellant's orthodontist found a score of 9 millimeters. (Ex. 4, p. 9). DentaQuest scored 3 millimeters on the Overbite. (Ex. 4, p. 15). Regarding the Crowding, Dr. Kaplan testified that appellant's lower arch had the sufficient score of 3.5 millimeters, but his measurement of the upper arch indicated only 2.5 millimeters. (Testimony).

Regardless of point total, it is also possible to qualify for orthodontic treatment if the appellant has a condition deemed an Autoqualifier. Here, the appellant's provider suggested the presence of an Autoqualifier, specifically, an Impinging Overbite. (Ex. 4, p. 9). Dentaquest did not find the presence of an Autoqualifier. (Ex. 4, p. 15) Dr. Kaplan testified he also did not find an Autoqualifier was present based upon his in-person review. He testified that the teeth must hit gum tissue and he did not see that occurring in appellant's mouth. (Testimony).

It is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the appellant. In order for the appellant's particular conditions to be evaluated to see if those particular conditions support a Medical Necessity determination, evidence, in the form of a Medical Necessity Narrative letter and supporting documentation, must be submitted by the appellant's requesting provider. Generally, 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 provide a Medical Necessity Narrative, nor was any additional supporting documentation submitted. Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time.

## Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 1-3).
2. Neither the initial DentaQuest review nor the review testified to by Dr. Kaplan found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 15; Testimony).
3. Appellant's provider submitted an HLD score of 25 points. (Ex. 4, p. 9).
4. Appellant's orthodontist found appellant had an automatic qualifier applicable, namely an impinging overbite. (Ex. 4, p. 9).
5. Based upon his in-person examination of appellant, Dr. Kaplan did not find an automatic qualifier present. DentaQuest also did not find an automatic qualifier present. (Testimony; Ex 4, p. 15).
6. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 10; Testimony).
7. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time. (Testimony).
8. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 4).

## 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>1</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. As 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.** ...*

(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). On

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<sup>1</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>.

this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

In this case, appellant's orthodontist indicated the presence of an automatic qualifier condition, namely an impinging overbite. (Ex. 4, p. 9). However, after his in-person examination of appellant, Dr. Kaplan testified that, even though appellant has an overbite, for which she received points on the HLD scale, it is not an impinging overbite. After careful examination of the appellant's teeth, Dr. Kaplan testified that the teeth must hit gum tissue and he did not see evidence of that happening. Therefore, he found no auto qualifying condition to be present. (Testimony). DentaQuest, in its review, also found no auto qualifier present. (Ex. 4, p. 15). I credit Dr. Kaplan's testimony that he did not find an Autoqualifier was present based upon his in-person review. Dr. Kaplan's assessment, testimony, and explanation about how the overbite was not severe enough to satisfy the condition was logical and consistent with the evidence and his presence subjecting him to cross-examination gave his opinion greater weight.

A review of the HLD scores is required to ascertain if appellant's bad bite or 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 calculated a score of 25 points on the HLD scale. However, I credit the testimony of Dr. Kaplan and his contemporaneous examination of the appellant in person. Dr. Kaplan scored 20 points on the HLD scale after examining appellant's teeth at hearing. Appellant's orthodontist scored the Overbite at 9mm. Based upon his in-person examination, Dr. Kaplan scored appellant's Overbite at 4 mm. (Testimony). Regarding Crowding, appellant's orthodontist scored 10 points. After his examination, Dr. Kaplan testified that appellant met the crowding requirement in the lower arch, being 3.5 millimeters, but did not meet the standard in the upper arch because he only measured 2.5 millimeters. Dr. Kaplan's score for Crowding was only 5 points. Dr. Kaplan was observed carefully examining appellant's mouth and he was available for cross-examination. Again, I credit his testimony and give his opinion greater weight.

Regarding a Medical Necessity determination, the appellant's orthodontic provider did not submit a Medical Necessity Narrative or documents to justify a Medical Necessity determination for the request for braces. (Ex. 4, p. 10). Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Exhibit 4; Testimony). I find no medical necessity is met in this case based on the evidence presented at this time.

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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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA