

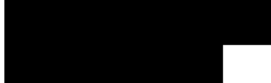
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2303657
<b>Decision Date:</b>	6/22/2023	<b>Hearing Date:</b>	06/07/2023
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan



*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 – Orthodontia
<b>Decision Date:</b>	6/22/2023	<b>Hearing Date:</b>	06/07/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center	<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 19, 2023, MassHealth denied the appellant's prior authorization request for orthodontia. (Exhibit 1.) The appellant filed this appeal in a timely manner on May 3, 2023. (Exhibit 1; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for orthodontia.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that that comprehensive orthodontia was not medically necessary for the appellant.

### Summary of Evidence

The appellant's provider submitted a prior authorization request on the appellant's behalf seeking

MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations (“HLD”) Form, with a total score of 25 points based upon: four points for overjet; six points for overbite; five points for mandibular protrusion; five points each for each arch for anterior crowding greater than 3.5 millimeters. (Exhibit 3, pp. 5-10, 12-14.)

DentaQuest, MassHealth’s dental contractor, reviewed the submitted images determined that the appellant’s HLD Score was 12. (Exhibit 3, p. 15.) At the hearing, Dr. Kaplan testified that MassHealth only pays for orthodontia when the member’s bite is sufficiently severe to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person’s bite to determine if the member has a “handicapping malocclusion.” This scale looks at characteristics of a bite to measure how the teeth work. Many children may be appropriate for orthodontic care but do not meet MassHealth’s definition of a physically handicapping bite. Dr. Kaplan reviewed the submitted images and measured the appellant’s bite in person. Dr. Kaplan testified that his score differed from the providers score in two categories. He could not see a mandibular protrusion, where the bottom teeth bite in front of their upper counterpart, and he only saw a millimeter of crowding in the lower front arch. Each of these conditions was worth five points, without either and the appellant’s provider’s score would not exceed 20 points.

The appellant’s mother testified that the appellant is getting headaches and pain when she chews. She testified that she had experienced similar symptoms associated with a diagnosis of TMJ for 10 years, and she went through a variety of treatments without success until a specialist suggested she get braces. She wants to avoid her daughter similarly suffering by getting her braces now. Dr. Kaplan testified that orthodontia is not always the necessary course of treatment for TMJ. Sometimes symptoms can be relieved with a mouthguard.

It was also pointed out that, while the appellant’s mother is in a good position to draw comparisons between her symptoms and her daughters, the appellant was not yet diagnosed with TMJ, and no provider has prescribed braces to treat it. MassHealth will pay for an orthodontist to evaluate and submit a request for orthodontic coverage. The appellant’s provider would need to submit a “Medical Necessity Narrative” with a request for coverage. This narrative would need to explain that a provider is treating the appellant for TMJ, and that the provider recommends orthodontia as a treatment. It was further suggested that this letter should also detail what other treatments had been attempted.

## Findings of Fact

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

1. The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found a total score of 25, including five points for mandibular protrusion and five points for 3.5 mm of anterior crowding in the lower arch. (Exhibit 3, pp. 5-10, 12-14.)
2. MassHealth denied comprehensive orthodontia, finding only 12 points on the HLD scale. (Exhibit 3, pp. 3-4, 11, 15.)
3. The appellant does not have any mandibular protrusion, and she does not have more than 3.5 mm of crowding in her front lower arch. (Testimony by Dr. Kaplan.)

## Analysis and Conclusions of Law

MassHealth provides orthodontic services when it determines them to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.<sup>1</sup> (130 CMR 450.204.) Pursuant to 130 CMR 420.431(C)(3), MassHealth “pays for comprehensive orthodontic treatment ... only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the Dental Manual.” The regulations do not speak directly to what conditions qualify as “severe and handicapping” except to specifically cover “comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.” (130 CMR 420.431(C)(3).)

The HLD Form is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth has made a policy decision that a score of 22 or higher signifies a “severe and handicapping malocclusion,” ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping: cleft palate, deep impinging overbite, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than nine millimeters, or reverse overjet greater than 3.5 millimeters. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

HLD Form provides instructions for submitting a “Medical Necessity Narrative and Supporting Documentation”:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;

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<sup>1</sup> The Dental Manual and Appendix D are available on MassHealth’s website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited June 7, 2023.) Additional guidance is at the MassHealth Dental Program Office Reference Manual (“ORM”). (Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>, last visited June 7, 2023.)

- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;**
- iii. a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or**
- v. a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.**

Providers may submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. Providers must submit this narrative in cases where the patient does not have an autoqualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider's justification of medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must

- i. clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g., general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);

v. discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and

vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment. The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative.

(Exhibit 5, p. 11; ORM, Appendix B, p. B-2 (emphasis added).)

No medical necessity narrative was submitted. Rather, the appellant's orthodontist allowed five points for mandibular protrusion and five points for crowding greater than 3.5 mm in the front arch. Without the points awarded in either of these categories, the appellant's own orthodontist's score does not qualify under the HLD system. The appellant's mother agreed that there did not appear to be at least 3.5 mm of crowding in the appellant's lower front teeth, but rather identified that the appellant may have TMJ, which could be alleviated by orthodontia. The appellant is welcome to pursue clinical documentation of a medical diagnosis for which the least costly, most conservative treatment is orthodontia. (See 130 CMR 450.204.) This documentation should be attached as a medical necessity narrative to another prior authorization request form the appellant's orthodontist. 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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Christopher Jones

Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA