

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2304911
<b>Decision Date:</b>	07/31//2023	<b>Hearing Date:</b>	07/31/2023
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearance for Appellant:**  
[Redacted] mother

**Appearance for MassHealth:**  
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 treatment
<b>Decision Date:</b>	07/31/2023	<b>Hearing Date:</b>	07/31/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South (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 March 16, 2023, MassHealth denied the appellant's request for prior authorization for orthodontic treatment because MassHealth determined that the appellant does not have a handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on June 16, 2023<sup>1</sup>. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

## **Action Taken by MassHealth**

MassHealth denied the appellant's request for prior authorization 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 his mother. The appellant's mother verified his identity. MassHealth was represented telephonically at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on March 14, 2023. (Exhibit 5, p. 3). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the appellant's mouth. (Exhibit 5) The appellant's orthodontist noted that a medical necessity narrative would not be submitted. (Exhibit 5, p. 8).

The MassHealth representative testified MassHealth usually does not cover orthodontic treatment; MassHealth only covers orthodontic treatment if the member's malocclusion is severe, disfiguring, or handicapping. The MassHealth representative noted that the issue here is not whether the appellant needs orthodontic treatment, but whether his malocclusion is severe enough to meet MassHealth criteria for coverage. The MassHealth representative testified that MassHealth determines the severity of a malocclusion by using the HLD form. The MassHealth representative stated that the HLD form has all the orthodontic conditions that can exist in the mouth and, the more the condition deviates from the norm, the more points are assigned to the condition. The MassHealth representative stated that 22 points or more are needed on the HLD form to show a severe malocclusion.

The appellant's orthodontist submitted an HLD form with the request for prior authorization. (Exhibit 5, p. 9). The HLD form lists 13 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. (Exhibit 5, p. 9). If a member has any of the 13 autoqualifiers or a HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Exhibit 5, p. 9). The 13 autoqualifiers are a cleft lip/palate; impinging overbite with

evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated (excluding 3<sup>rd</sup> molars); severe traumatic deviations; overjet greater than 9 millimeters; reverse overjet greater than 3.5 millimeters; crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth (excluding 3<sup>rd</sup> molars) of at least one tooth per quadrant; lateral open bite: 2 mm or more of 4 or more teeth per arch; and anterior open bite: 2 mm or more of 4 or more teeth per arch. (Exhibit 5, p. 9). If any of these are present, the request for orthodontic treatment is approved. (Exhibit 5, p. 9). If none of these are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread or anterior spacing, posterior unilateral crossbite, and posterior impactions or congenitally missing posterior teeth, and gives each measurement a value based on the calculation worksheet on the HLD Form. (Exhibit 5, p. 9).

The appellant's orthodontist indicated that the appellant does not have any of the autoqualifiers. (Exhibit 5, p. 9). The appellant's orthodontist calculated a HLD score of 22, measuring 6 millimeters for overjet, 7 millimeters for overbite, 5 points for crowding in the lower anterior teeth, and 4 millimeters for labio-lingual spread. (Exhibit 5, p. 9).

Based on a review of the photographs of the appellant's mouth, MassHealth/DentaQuest calculated a HLD score of 15, measuring 3 millimeters for overjet, 5 millimeters for overbite, 5 points for more than 3.5 millimeters of crowding in the lower anterior teeth, and 2 millimeters for labio-lingual spread. (Exhibit 5, p. 15). The MassHealth representative testified that he reviewed the appellant's photographs and x-rays and carefully measured the appellant's teeth. The MassHealth representative testified that he measured 6 millimeters for overjet, 5 millimeters for overbite, 5 points for crowding in the lower anterior teeth, and 3 millimeters for labio-lingual spread for a total of 19 points. The MassHealth representative noted that his measurements differed from the appellant's orthodontist's measurements in the areas of overbite and labio-lingual spread, or, in this case, overlapping. The MassHealth representative stated that the xrays of the appellant's teeth show that the upper teeth cover the lower teeth by 5 millimeters, not 7 as indicated by the appellant's orthodontist. (Exhibit 5, p. 14). The MassHealth representative stated that the photographs of the appellant's teeth show overlap from canines to incisors. (Exhibit 5, p. 12). The MassHealth representative stated that measured a total of 3 millimeters of overlap from canines to incisors, not 4 millimeters as indicated by the appellant's orthodontist. The MassHealth representative noted that there is still a chance the teeth could shift and change, and the HLD score increase.

The MassHealth representative stated that while he agrees that the appellant would benefit from orthodontic treatment, the issue here is not whether the appellant needs braces, but rather whether he meets the criteria under the regulations for MassHealth to cover the orthodontic treatment. The MassHealth representative stated that because there is no evidence of a

handicapping malocclusion, MassHealth will not cover the orthodontic treatment.

The appellant's representative stated that there was no point in having the hearing since the decision has already been made and she finds the points system tedious. The appellant's representative noted that MassHealth is funded by tax payer money and this is a necessity for her child, but he is being denied because of points. The appellant's representative stated that basically they are just looking for points and repeated that this is tedious criteria. The appellant's representative stated that the criteria for coverage should have been explained to her at the beginning of the hearing, because all she is hearing about is points. The appellant's representative referred to people who cheat the system, and complained that her child cannot get orthodontic treatment because of measurements and points. The appellant's representative stated that, at the end of the day, if this isn't going to help, what was she doing there. The Hearing Officer noted that she was trying to explain that to the appellant's representative, but the representative hung up.

## **Findings of Fact**

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

1. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these, along with photographs and x-rays of the appellant's mouth, to DentaQuest.
3. The appellant's orthodontist calculated an HLD score of 22 and noted that the appellant has 7 millimeters of overbite and 4 millimeters for labio-lingual spread.
4. The MassHealth representative calculated an HLD score of 19 after reviewing the photographs and x-rays.
5. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion.
6. The photographs do not support that the appellant has 4 millimeters of labio-lingual spread.
7. The xrays show the appellant's upper teeth cover his lower teeth by 5 millimeters.

## Analysis and Conclusions of Law

### 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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

### (B) Definitions.

(1) Pre-orthodontic Treatment Examination – includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) Interceptive Orthodontic Treatment – includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.

(3) 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.

(4) Orthodontic Treatment Visits – periodic visits which may include but are not limited to updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(130 CMR 420.431(A)(B)).

Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic 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 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 21 years of age. Comprehensive orthodontic care should commence when the first premolars and 1st permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one 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)).

MassHealth covers comprehensive orthodontic treatment if the MassHealth member evidences a handicapping malocclusion either by having one of the autoqualifiers listed on the HDL form or by meeting a HLD score of 22 or higher. Comprehensive orthodontic treatment is also covered by MassHealth if it is medically necessary for the member as evidenced by a medical necessity narrative and supporting documentation. The appellant's orthodontist noted that no medical necessity narrative would be submitted.

The appellant's orthodontist noted that the appellant does not have any of the autoqualifiers. Although the appellant's orthodontist calculated an HLD score of 22, the photographs show that the appellant has 3 millimeters for labio-lingual spread, and the xrays show 5 millimeters of overbite. Accordingly, the appellant's orthodontist's HLD score is reduced by 3 points, to a score of 19. Both the MassHealth representative's HLD score of 19 and the appellant's orthodontist's accurate HLD score of 19 are less than the necessary 22 for approval of MassHealth coverage. Because the appellant does not meet the criteria for any of the autoqualifiers, nor does he have an HLD score of 22 or higher, there is no evidence to support that the appellant has a handicapping malocclusion. MassHealth was correct in denying the request for prior approval pursuant to 130 CMR 420.431. MassHealth's action is upheld and the appeal is denied.

Because the appellant's representative hung up before the hearing ended, there was no opportunity to discuss if the appellant might have a medical condition that might result in medical necessity for orthodontic treatment. Further, because the appellant's score is close to 22, the Hearing Officer was going to suggest that the hearing be rescheduled for an in person hearing so that the Hearing Officer could observe the MassHealth representative's measurements of the appellant's actual teeth, rather than measurements based on photographs and xrays. Actual

measurements might result in a higher HLD score. While the appellant's representative's frustration at being denied is understandable, it was misdirected at the Hearing Officer and MassHealth representative and denied her the opportunity to learn of other options. As it is, the Hearing Officer advises the appellant's representative to return to the orthodontist on or after September 14, 2023 (orthodontic evaluations are covered by MassHealth every 6 months) and have the appellant re-measured and resubmit the request. If the request is denied, the appellant's representative is advised to appeal and request an in person hearing.

## **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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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest