

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2304989
<b>Decision Date:</b>	09/08/2023	<b>Hearing Date:</b>	07/26/2023
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**

Pro se with



**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 - Orthodontics
<b>Decision Date:</b>	09/08/2023	<b>Hearing Date:</b>	07/26/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Tewksbury		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notice dated June 6, 2023, MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment (Exhibit A). Appellant filed this appeal in a timely manner on June 20, 2023 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by the Division

MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulations(s) to accurate facts when it denied Appellant's prior authorization request for comprehensive orthodontic treatment.

## Summary of Evidence

The MassHealth representative, a practicing orthodontist, testified that Appellant's request for comprehensive orthodontic treatment was considered in light of the written information provided in the prior authorization request form (Exhibit B) and oral photographs submitted by Appellant's dental provider. The information was then applied to a standardized HLD Index that is used to make an objective determination as to whether Appellant has a "*handicapping malocclusion*." The MassHealth representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. The MassHealth representative testified that a handicapping malocclusion typically reflects a minimum score of 22. In lieu of the HLD scoring, the existence of a handicapping malocclusion can be established by the presence of an "auto-qualifier". Auto-qualifiers are specifically identified by regulation auto-qualifiers include such things as cleft lip/palate, deep and deep impinging overbites.

The MassHealth representative testified that Appellant's orthodontist did not submit an HLD score, but instead asserted the presence of an auto-qualifier: an anterior open bite. MassHealth's reviewing agent, DentaQuest agreed that there was an open bite, but it only involves 2 teeth and in order for it to be an auto-qualifier, the overbite must involve at least 4 teeth. Upon reviewing the X-rays and dental photographs submitted with the request, the MassHealth representative agreed that Appellant's open bite involved only two teeth, not four. The MassHealth representative confirmed his opinion upon personally examining Appellant's dentition during the hearing.

The MassHealth representative further testified that he did calculate an HLD score for Appellant and reached a score of 19.

Appellant's mother testified that Appellant should qualify for comprehensive orthodontic treatment because she is only misses the threshold by 3 points and her treating orthodontist says that Appellant needs braces.

## Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant seeks prior authorization for comprehensive orthodontic treatment.
2. Appellant's orthodontist filed a written prior authorization request which included a standard HLD, dental X-rays and oral photographs (Exhibit B).
3. Appellant's orthodontist did not submit an HLD score, but instead asserted the presence of an auto-qualifier: an anterior open bite.

4. MassHealth's reviewing agent, DentaQuest agreed that there was an open bite, but it only involves 2 teeth.
5. Upon reviewing the X-rays and dental photographs submitted with the request, the MassHealth representative agreed that Appellant's open bite involved only two teeth.
6. The MassHealth representative confirmed his opinion upon personally examining Appellant's dentition during the hearing.
7. Appellant has an open bite that involves no more than 2 teeth.
8. The MassHealth representative calculated an HLD score of 19 for Appellant.

## Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

Regulations at 130 CMR 420.431(C)(3) state in pertinent part:

*Service Descriptions and Limitations: Orthodontic Services:*

*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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record.*

(Emphasis supplied).

Appendix D of the MassHealth Dental Manual requires an HLD score of 22 and/or the existence of a specified auto-qualifier to evidence the existence of a handicapping malocclusion.

While Appellant would benefit from orthodontic treatment, the above-cited regulation is clear and unambiguous. MassHealth will cover orthodontic treatment "**only**" for recipients who have a "**handicapping malocclusion.**" Based on the informed and considered opinion of

MassHealth's agent, DentaQuest and the MassHealth representative, who is a practicing orthodontist, who both examined Appellant's oral photographs and the other documentation submitted by the requesting dental provider, I find that Appellant does not meet the requirements of 130 CMR 420.431(C)(3) insofar as she currently does not have the minimum objective score of 22 or the presence of an auto-qualifier to indicate the presence of a *"handicapping malocclusion"*.

According to Appendix D of the MassHealth Dental Manual, in order for an anterior open bite to constitute an auto-qualifier for comprehensive orthodontic treatment, the anterior open bite must measure 2mm or more and involve 4 or more teeth per arch. DentaQuest's determination that Appellant's open bite involves only 2 teeth was corroborated by the MassHealth representatives own review of the dental X-rays and the oral photographs and further confirmed by his personal examination of Appellant's dentition during the hearing.

Appellant has not met her "heavy" burden. At hearing, Appellant's mother merely expressed her opinion that Appellant should qualify for MassHealth to pay for her braces because her provider told her Appellant needs braces. She offered no objective information or documentation and otherwise presented no evidence that would support the reversal of MassHealth's determination.

For the foregoing reasons, the appeal is DENIED.

If Appellant's dental condition should worsen as she grows older, and her dental provider believes a handicapping malocclusion can be documented, a new prior authorization request can be filed at that time as long as Appellant is under the age of 21.

## **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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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA