

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305435
Decision Date:	8/30/2023	Hearing Date:	08/22/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Appellant with Father

Appearance for MassHealth:
Dr. Harold Kaplan, DMD



*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

Appeal Decision:	Denied	Issue:	Orthodontics
Decision Date:	8/30/2023	Hearing Date:	08/22/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Father
Hearing Location:	Tewksbury MassHealth Enrollment Center		

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 May 21, 2023, MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on July 3, 2023 (130 CMR 610.015; Exhibit 2). A hearing was scheduled for August 7, 2023 and was rescheduled at Appellant's request (Exhibit 3). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for comprehensive orthodontic services.

Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Kaplan testified that he is a licensed orthodontist with many years of clinical experience. On May 11, 2023, Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. The provider's HLD Form does not state a HLD score; instead, Appellant's provider reported only that Appellant has a deep impinging overbite, which Dr. Kaplan described as involving the lower teeth striking the gum tissue in the upper mouth, causing ulcerations and soft tissue damage. Dr. Kaplan examined Appellant's dentition at hearing and stated that Appellant has a deep overbite, but there is no evidence that the overbite is impinging or damaging the soft tissue. Dr. Kaplan added that X-rays show that Appellant's lower teeth are occluding with the lingual surface of the upper front teeth as opposed to striking gum tissue. Dr. Kaplan also testified that DentaQuest completed HLD measurements and arrived at a score of 10 points, and that he scored 12 points which is below the required 22 points for approval. Dr. Kaplan stated that Appellant can reapply if the condition worsens provided orthodontic services start before 21 years of age.

Appellant's father testified that he feels Appellant's orthodontist's determination of a deep impinging overbite should be given greater deference. He questioned Dr. Kaplan's interpretation of the X-rays which he feels do not show the lower teeth occluding with the front upper teeth rather than gum tissue.

Findings of Fact

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

1. On May 11, 2023, Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs.
2. The Handicapping Labio-Lingual Deviations (HLD) Form requires a total score of 22 or higher for approval. Appellant's orthodontic provider's HLD Form does not state a HLD score; instead, Appellant's orthodontic provider reported that Appellant has a deep impinging overbite.
3. Appellant has a deep overbite but does not have a deep impinging overbite causing soft tissue damage.
4. DentaQuest and Dr. Kaplan completed HLD measurements and arrived at scores of 10 and 12 points respectively.

Analysis and Conclusions of Law

Regulation 130 CMR 420.431(C)(3) states in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

Appendix D of the *Dental Manual* is the Handicapping Labio-Lingual Deviations (HLD) Form which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has established that a score of 22 or higher signifies a handicapping malocclusion. Further, Appendix D of the *Dental Manual* designates for automatic approval: Impinging Overbite **with evidence of occlusal contact into the opposing soft tissue**.¹

Dr. Kaplan is a licensed orthodontist with many years of clinical experience and is qualified to testify on behalf of MassHealth. After examining Appellant's dentition at hearing, Dr. Kaplan testified that although Appellant has a deep overbite, there is no evidence of soft tissue damage as required by MassHealth for a deep impinging overbite to be an autoqualifying condition. Dr. Kaplan testified that X-rays submitted with the prior authorization request show that Appellant's bottom teeth occlude with the lingual area of the front upper teeth and not the palatal tissue (See Exhibit 1, p. 14). Dr. Kaplan's testimony is credible and supported by his examination of Appellant's dentition and X-ray evidence in the hearing record. Appellant's orthodontic provider indicated a "100% deep impinging overbite" (Exhibit 1, p. 12); however, Appellant's overbite does not correspond to the MassHealth definition of an impinging overbite that requires evidence of occlusal contact into the opposing soft tissue to be an autoqualifying condition. Dr. Kaplan's testimony was based on his examination of Appellant's dentition and X-ray evidence and establishes that Appellant does not meet the MassHealth definition of a handicapping malocclusion at this time.

The appeal is denied.

¹ See MassHealth Dental Manual, Transmittal DEN 111, 10/15/2021 available at: <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>

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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA