

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2306464
<b>Decision Date:</b>	11/21/2023	<b>Hearing Date:</b>	09/11/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	9/25/23; 10/9/23

**Appearance for Appellant:**  
Pro se

**Appearance for MassHealth:**  
Dr. Harold Kaplan, DMD

**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>	Prior Authorization-Orthodontics
<b>Decision Date:</b>	11/21/2023	<b>Hearing Date:</b>	09/11/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote (Appellant on Video)	<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 July 17, 2023, MassHealth denied appellant's prior authorization for comprehensive orthodontic treatment visit, Code D8080. (Ex.1; Ex. 4). The appellant filed this appeal in a timely manner on July 29, 2023. (130 CMR 610.015(B). 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 comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct in determining appellant does not meet the MassHealth requirements for comprehensive orthodontic treatment.

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### Summary of Evidence

Appellant is a [REDACTED] MassHealth member who appeared pro se by video at the hearing. MassHealth was represented in person 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. Appellant and Dr. Kaplan were sworn.

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 12. (Ex. 4, p. 7). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 14 on the scale. (Testimony). DentaQuest reached a score of 7. (Ex. 4, p. 13).

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 did not indicate the presence of an Autoqualifier. (Ex. 4, p. 7). Dentaquest did not find the presence of an Autoqualifier. (Ex. 4, p. 13). Dr. Kaplan testified he also did not find an Autoqualifier was present based upon his review. (Testimony).

It is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the appellant. For the appellant's particular conditions to be evaluated to see if those 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. The requirements for a medical necessity narrative are explained in the evidence. (Ex. 4, p. 8). Here, the appellant's orthodontic provider did not provide a Medical Necessity Narrative, nor was any additional supporting documentation submitted. (Ex. 4, p. 8). Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. The record was left open for appellant to provide a medical necessity narrative (Ex. 7) and the record open was extended for the appellant (Ex. 8)

but she did not provide any medical necessity narrative that would clearly demonstrate why comprehensive orthodontic treatment is medically necessary. Attached to an email sent by appellant to the hearing officer was a medical and family history but it was not written on official letterhead from appellant's provider. (Ex. 6, p. 3).

As the hearing progressed, appellant was asked if she already had braces on her teeth. She said she did and that they were placed there at the end of June 2023 by the provider who submitted her prior authorization request. (Testimony). After Dr. Kaplan realized appellant already had braces placed on her teeth, he stated "MassHealth will not pay for anything once the appliances are put on". (Testimony).

Appellant testified she has known for awhile she needed braces. She stated her bottom teeth shift and they "hurt a lot". She stated she is making monthly payments for her braces and she believes it has affected her mental health.

## Findings of Fact

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

1. Appellant is 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. 13; Testimony).
3. Appellant's provider submitted an HLD score of 12 points. (Ex. 4, p. 7).
4. None of the three orthodontists examining the record found an auto qualifier present. (Testimony; Ex. 4, pp. 8, 13).
5. 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. 8; Testimony).
6. Neither Dr. Kaplan's testimony nor evidence submitted by DentaQuest supports a Medical Necessity determination at this time. (Testimony; Ex. 4).
7. Before the request for prior authorization was received by DentaQuest on July 13, 2023, appellant had braces placed on her teeth at the end of June 2023. (Testimony; Ex. 4, p. 1).
8. The record was left open and extended for appellant to submit a medical necessity narrative. None was received.

## Analysis and Conclusions of Law

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).

Covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. (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.

A review of the different 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. None of the three orthodontists examining the record found an HLD score of 22 or more. (Testimony; Ex. 4, pp. 7, 13).

Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary. Neither Dr. Kaplan's testimony nor evidence submitted by DentaQuest supports a Medical Necessity determination at this time. (Testimony; Ex. 4). The record was left open for appellant to provide a medically necessary narrative. Appellant sent an email on the day the record open period ended, stating she was waiting on her primary care doctor for a medical necessity narrative. (Ex. 6). The record open period was extended to October 9, 2023 (Ex. 8) but no medical necessity narrative was produced by appellant.

The appeal is denied because appellant failed to meet any one of the three requirements for orthodontic treatment as stated above.

Additionally, even if appellant had met one of the three requirements for treatment, the appeal would have been denied because appellant had braces placed on her teeth before prior authorization was granted and there was no medical necessity to do so.

#### 420.410: Prior Authorization (A) Introduction

(1) The MassHealth agency pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. In some instances, prior authorization is required for members 21 years of age or older when it is not required for members younger than 21 years old.

(2) Services requiring prior authorization are identified in Subchapter 6 of the Dental Manual, and may also be identified in billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances. The MassHealth agency only reviews requests for prior authorization where prior authorization is required or permitted (see 130 CMR 420.410(B)).

**(3) The provider must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency.** The MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the MassHealth agency

- (a) the treatment was medically necessary;
- (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and
- (c) it would not be clinically appropriate to delay the provision of the service. (emphasis added).

Prior authorization is required for members under the age of 21 for comprehensive orthodontic treatment per Service Code D8080 and periodic orthodontic treatment per Service Code D8670.

(Dental Manual, Subchapter 6).

At hearing, appellant stated she had braces placed on her teeth at the end of June 2023. (Testimony). Appellant's orthodontist submitted a request for prior authorization for Code D8080, comprehensive orthodontic treatment, in mid July 2023, (Ex. 1 and 4), weeks after the braces were placed on appellant's teeth. Appellant's provider did not submit any evidence, and MassHealth did not find that the provider discovered the need for additional services while the member was in the office and undergoing a procedure. (130 CMR 412.410 (3)(b)). The MassHealth agency did not grant prior authorization after this procedure began because there was no finding "it would not be clinically appropriate to delay the provision of the service." (130 CMR 420.410 (3) (c)). At no point did appellant's orthodontist submit any evidence of a medical necessity for braces and appellant did not produce any medical necessary narrative after the hearing during a record open period.

The provider placed braces on appellant's teeth before prior authorization was granted by MassHealth. Additionally, appellant's provider did not show medical necessity at any time, the provider was in violation of 130 CMR 420.10 (3) and Subchapter 6 of the Dental Manual. For this reason also, the 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