

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2306654

**Decision Date:** 10/24/2023

**Hearing Date:** 09/18/2023

**Hearing Officer:** Alexis Demirjian

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan, DentaQuest Consultant



*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; Comprehensive Orthodontic Treatment
<b>Decision Date:</b>	10/24/2023	<b>Hearing Date:</b>	09/18/2023
<b>MassHealth's Rep.:</b>	Dr. Kaplan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center Room 3	<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 26, 2023, MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment. (Exhibit 3). The appellant's father filed this appeal, on behalf of the minor appellant, in a timely manner on August 7, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Individual MassHealth agency determinations regarding scope and amount of assistance (including, but not limited to, level-of-care determinations) is valid grounds for appeal before the Board of Hearings. (see 130 CMR 610.032 (5)).

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct in denying the appellant's prior authorization for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member, who appeared with his father, in-person for hearing at the Tewksbury MEC. MassHealth was represented at hearing by an orthodontic consultant, from DentaQuest, the MassHealth dental contractor. The provider is a licensed and a board-certified orthodontist in Massachusetts.

The MassHealth orthodontic consultant testified that the Appellant's provider requested prior authorization for comprehensive orthodontic treatment on July 21, 2023. (See Exhibit 4 and Testimony). The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. (See Testimony.)

The MassHealth orthodontic consultant testified that MassHealth utilizes the HLD Index to determine whether an individual's condition constitutes a severe and handicapping malocclusion. (Id.) The HLD includes a list of all the conditions that may exist in an individual's mouth and assigns points based on how the individual's dentition deviates from the norm, the greater the deviation the greater the score. (Id.) The HLD involves taking objective measurements from the subject's teeth to generate an overall numeric score, or to find an auto-qualifying condition. A severe and handicapping malocclusion typically reflects a minimum cumulative score of 22 or an auto-qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index. (Exhibit 4).

The MassHealth orthodontic consultant testified that the Appellant's orthodontic provider submitted a prior authorization request on the Appellant's behalf based on an examination. (See Testimony and Exhibit 4). The Appellant's orthodontic provider submitted oral photographs, x-rays, and written information with the request for the prior authorization. (Id.)

The MassHealth orthodontic consultant testified that according to the prior authorization request, the Appellant's orthodontic provider reported that the Appellant had a HLD score of 17, which did not reach the minimum score of 22 which is required for MassHealth payment of the orthodonture. (Id.) Additionally, the appellant's provider asserted that the appellant had an auto-qualifying condition, specifically, impactions where eruption is impeded but extraction is not indicated (excluding third molars) on tooth #6. (Id.)

At hearing, the orthodontist examined the appellant's mouth and determined that the appellant did not yet have an auto-qualifying condition, specifically, impactions where eruption is impeded but extraction is not indicated (excluding third molars) on tooth #6. (Id.) The provider indicated that he was not submitting a "medical necessity" narrative with the submission. (Id.)

After examining the appellant and reviewing the photographs and X-rays, the MassHealth orthodontist consultant testified that his review confirmed the Appellant's provider's conclusion, which is that the Appellant's HLD score did not reach the minimum required score of 22. (Id.). However, he vehemently disagreed with the appellant's provider that the appellant had an auto-qualifying condition, specifically, impactions where eruption is impeded but extraction is not indicated (excluding third molars) on tooth #6. (Id.) After examining the patient for the auto-qualifying condition, the MassHealth orthodontist opined that while it appears that the auto-qualifying condition may develop, it is too early to make such a conclusion and that MassHealth needs to see the existence of the auto-qualifying condition rather than the suggestion that it will develop. (Testimony of MH). The MassHealth orthodontist further testified, that while he could not objectively find evidence of the auto-qualifying condition at this point, the condition is likely to develop and that MassHealth will pay for a re-evaluation for comprehensive orthodontic treatment every six months. (Id.)

## **Findings of Fact**

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

1. The Appellant is under 21 years of age. (Testimony; Exhibit 4)
2. On July 21, 2023, the Appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment. (Testimony; Exhibit 4)
3. On July 26, 2023, MassHealth denied the Appellant's prior authorization request. (Exhibit 3)
4. On August 7, 2023, a timely fair hearing request was filed on the Appellant's behalf. (Exhibit 2)
5. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion. (Testimony)
6. MassHealth employs a system of comparative measurements known as the HLD Index as a determinant of a severe and handicapping malocclusion. (Testimony)
7. An automatic qualifying condition on the HLD Index is a severe and handicapping malocclusion. (Testimony)

8. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion. (Testimony)
9. The Appellant's orthodontic provider provided an HLD score of 17, based on measurements he took of the Appellant's malocclusion. (Testimony; Exhibit 4)
10. The Appellant's orthodontic provider alleged that the Appellant had an automatic qualifying condition. (Testimony; Exhibit 4)
11. Using measurements taken from the Appellant's oral photographs, X-rays and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the Appellant did not have a an HLD score of 22 or above or an automatic qualifying condition. (Testimony; Exhibit 4)
12. Appellant's orthodontist checked "no" when asked if he was submitting a medical necessity narrative with the prior authorization request. (Exhibit 4)
13. The MassHealth orthodontic consultant concluded that the Appellant does not have a severe and handicapping malocclusion. (Testimony)

## **Analysis and Conclusions of Law**

Regulation 130 CMR 420.431(C) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and 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.<sup>1</sup>

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum

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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 October 23, 2023.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"), available at: (Last <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> last visited on October 23, 2023)

HLD index score of 22.

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 lip, cleft palate, or other cranio-facial anomaly, impinging overbite with evidence of occlusal contact into the opposing soft tissue, impactions where eruptions are impeded but extraction is not indicated (excluding third molars), overjet (greater than 9mm), reverse overjet (greater than 3.5mm), crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd 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 third molars) of at least one tooth per quadrant, lateral open bite 2mm or more of 4 or more teeth per arch, anterior open bite 2mm or more of 4 or more teeth per arch.

In this case, the Appellant’s orthodontist calculated an overall HLD Index score of 17, below the threshold of 22 necessary for MassHealth payment for comprehensive orthodontics. The MassHealth representative testified that he agreed with the Appellant’s provider in that the HLD score did not reach or exceed a 22. The MassHealth expert examined the appellant and determined that while there is a likelihood that an auto-qualifying condition may develop, at this point in time, the appellant does not meet the criteria to qualify with an auto-qualifying condition. In addition, he testified credibly that no other information was provided to show medical necessity.

The MassHealth expert, a licensed orthodontist, demonstrated a familiarity with the HLD Index and the auto-qualifying conditions that exist in the mouth. His measurements are credible, and his determination is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant’s representative.

For those reasons MassHealth’s decision remains undisturbed and 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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Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA