

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2307126
<b>Decision Date:</b>	10/16/2023	<b>Hearing Date:</b>	10/05/2023
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearances for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, DentaQuest

**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>	Orthodontic treatment
<b>Decision Date:</b>	10/16/2023	<b>Hearing Date:</b>	10/05/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Reps.:</b>	Pro se; mother
<b>Hearing Location:</b>	Quincy Harbor South		

### 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 28, 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 August 17, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 130 CMR 610.032).

### 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 appeared at the hearing with his mother who testified through an interpreter. The appellant's mother verified the appellant's identity. MassHealth was represented 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 [REDACTED] 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. 10).

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 none of the autoqualifiers. (Exhibit 5, p. 9). The appellant's orthodontist calculated an HLD score of 22, measuring 7 millimeters for overjet, 5 millimeters for overbite, 5 points for more than 3.5 millimeters of crowding in the upper anterior teeth, and 5 millimeters for labio-lingual spread. (Exhibit 75, p. 9).

Based on a review of the photographs of the appellant's mouth, MassHealth/DentaQuest calculated a HLD score of 16, measuring 3 millimeters for overjet, 5 millimeters for overbite, 5 points for mandibular protrusion, and 3 millimeters for labio-lingual spread. (Exhibit 5, p. 16).

The MassHealth representative examined the appellant at the hearing and measured the appellant's teeth. The MassHealth representative testified that he measured 5 millimeters for overjet, 4 millimeters for overbite, 5 points for mandibular protrusion, and 2 to 3 millimeters for labio-lingual spread for a total of 16-17 points.

The MassHealth representative noted that his measurements differed from the appellant's orthodontist's measurements in that the appellant does not have more than 3.5 millimeters of crowding in her upper front teeth, and thus the appellant's orthodontist's score is lowered by 5 points. The MassHealth representative testified that exam at hearing shows 5 millimeters of overjet, not 7 millimeters as indicated by the appellant's orthodontist.

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 MassHealth representative stated that the appellant can go back to his orthodontist 6 months after his last visit (any time after [REDACTED] 2024) to be re-measured.

## **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; the appellant's orthodontist noted that the appellant has 7 millimeters of overjet, and more than 3.5 millimeters of crowding in her upper front teeth.
4. The MassHealth representative calculated an HLD score of 16-17 after examining the appellant at the hearing.
5. The appellant does not have more than 3.5 millimeters of crowding in her upper front teeth; the appellant has 5 millimeters of overjet.
6. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion.

## **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 autoqualifiers. The MassHealth representative measured the appellant's teeth at the hearing and the measurement showed 5 millimeters of overjet. Although the appellant's orthodontist calculated an HLD score of

22, based on the exam at hearing, the score is lowered by 2 points for the accurate overjet calculation, and lowered by an additional 5 points because the appellant does not have 3.5 millimeters of crowding in her upper front teeth. Accordingly, the appellant's orthodontist's HLD score is reduced by a total of 7 points, to a score of 15. Both the MassHealth representative's HLD score of 16-17 and the appellant's orthodontist's accurate HLD score of 15 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.

## **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