

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307829
Decision Date:	11/13/2023	Hearing Date:	10/11/2023
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter, DentaQuest

Interpreter:

Spanish



*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:	Comprehensive Orthodontic Services
Decision Date:	11/13/2023	Hearing Date:	10/11/2023
MassHealth's Rep.:	Dr. Carl Perlmutter, DentaQuest	Appellant's Rep.:	Mother
Hearing Location:	Springfield 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 07/26/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). On 09/01/2023, a timely appeal was filed with the Board of Hearings on behalf of the appellant, a minor child (see 130 CMR 610.015(B) and Exhibit 2)¹. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

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

¹ The appellant is a minor child who appeared in person at the fair hearing with her mother, her appeal representative.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member who appeared in person at the fair hearing with her mother, the appeal representative. MassHealth was represented in person at the fair hearing by Dr. Carl Perlmutter, an orthodontist from DentaQuest, the MassHealth dental contractor.

On 07/24/2023, the appellant's provider, [REDACTED], submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has an HLD score of 8, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	0	1	0
Overbite in mm	0	1	0
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			8

The appellant's orthodontist also identified an automatic qualifying condition; specifically, that the appellant has a reverse overjet greater than 3.5 mm. The treating orthodontist did not include a medical necessity narrative with the PA request.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its

orthodontists determined that the appellant had an HLD score of 8. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	0	1	0
Overbite in mm	0	1	0
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: x Mandible: 0	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	0	1	3
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			8

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 07/27/2023.

At hearing, Dr. Perlmutter testified that he reviewed all the information provided with the PA. In addition, he obtained permission from the appellant's mother and examined the appellant's malocclusion using the instructions on the HLD Index score sheet. He testified that according to his measurements, the appellant has an HLD score of 8. He testified that the appellant's provider did not score the appellant's malocclusion correctly; specifically, Dr. Perlmutter disputed the appellant's score for a reverse overjet. Dr. Perlmutter testified that the appellant's provider appears to score one of the appellant's front teeth as a "reverse overjet" because the top tooth bites behind the corresponding bottom tooth. Dr. Perlmutter testified that according to the HLD Index score sheet, this is not a "reverse overjet," and the measurement is not more than 3.5 mm. He concluded that the appellant's malocclusion does not meet the MassHealth guidelines for payment for her comprehensive orthodontic services (full braces).

The appellant's mother² appeared with the appellant at the fair hearing. The mother argued that

² The appellant's representative requested a Spanish-language interpreter to assist her at the fair hearing; however, at the hearing, she informed the hearing officer that she did not need an interpreter. The hearing officer informed her that at any time she could request an interpreter and he would contact an interpreter by telephone.

the appellant has a single front tooth that is not biting correctly and it will need to be corrected. The mother did not understand why MassHealth will not pay to fix a problem so that it will not get worse.

Findings of Fact

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

1. On 07/24/2023, the appellant's orthodontic provider, [REDACTED] submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an HLD score of 8 points (Exhibit 4).
3. The appellant's orthodontic provider also indicated that the appellant has an automatic qualifying condition; specifically, that she has a "reverse overjet" greater than 3.5 mm (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 8, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or if there is an "automatic qualifying condition" (Exhibit 4; Testimony).
7. On 07/26/2023, MassHealth notified the appellant that the PA request had been denied (Exhibits 1 and 4).
8. On 09/01/2023, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 10/11/2023, a fair hearing took place before the Board of Hearings (Exhibit 3).
10. At the fair hearing, the MassHealth orthodontist requested and received permission to examine the appellant's malocclusion, using the HLD Index score sheet. He also reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 8 (Testimony; Exhibit 4).

11. The appellant's HLD score is below 22 (Testimony).
12. The appellant has one front tooth in crossbite (Testimony).
13. The appellant's orthodontic provider indicated that he was not including a medical necessity narrative with the PA (Testimony).
14. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm. involving 4 or more teeth).

Analysis and Conclusions of Law

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

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

Appendix D of the Dental Manual is the "Handicapping Labio-Lingual Deviations Form" (HLD), 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 determined that a score of 22 or higher signifies a severe and handicapping malocclusion. MassHealth will also approve a prior authorization request without regard for the HLD numerical score if there is evidence of a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant's provider documented that the appellant has an HLD score of 8. He also documented that the appellant has at least 3.5 mm of a reverse overjet, an automatic qualifying condition. Upon receipt of the PA request and after reviewing the provider's submission, MassHealth found an HLD score of 8 and no automatic qualifying condition. At hearing, after a review of the prior authorization documents and a physical examination of the appellant's malocclusion, a different orthodontic consultant found an HLD score of 8 and no evidence of an automatic qualifying condition.

All reviewing orthodontists, including the provider chosen by the appellant, agree that the appellant's HLD Index score is less than the 22 points required for MassHealth payment of the comprehensive orthodontic services. There is one difference between the treating orthodontist's and the MassHealth orthodontist's evaluation, which is the alleged automatic qualifying condition of reverse overjet greater than 3.5 mm. It appears that the appellant's provider scored one front top tooth that bites inside the corresponding bottom tooth as a "reverse overjet." The MassHealth orthodontist reviewed the HLD Index score sheet and testified that the appellant's malocclusion does not meet the definition of a "reverse overjet." Accordingly, he could not find an automatic qualifying condition.

Appendix D of the *Dental Manual* scoring instructions for reverse overjet, states,

Reverse Overjet Greater Than 3.5 mm: Indicate an "X" on the form. This is recorded with the patient in the centric occlusion and measured from the labial of the lower incisor to the labial of the upper incisor. The measurement is taken horizontally from the labial of the incisal edge of the mandibular incisor to the nearest point of the labial of the surface of the maxillary incisor. ***A single tooth in crossbite should not be considered as mandibular protrusion.*** Reverse overjet greater than 3.5 mm may be demonstrated with a measuring device to verify the claimed measurement. The provider may submit a photo with the measuring device (Boley gauge, disposable ruler, or probe) in the patient's mouth, or on models mounted in centric occlusion. (This is considered an autoqualifying condition).

(Emphasis added.)

The MassHealth orthodontist testified that the appellant's orthodontist incorrectly asserted that the appellant has a reverse overjet. He testified credibly that the appellant has one tooth in crossbite, but no other evidence of a reverse overjet using the above instructions. The MassHealth orthodontist demonstrated his measurements and evaluation to the hearing officer, using the photographs, X-rays and other documentation in the appellant's clinical record to support his determination that there is no reverse overjet. Additionally, he demonstrated a familiarity with the HLD Index score sheet instructions and he was available to be questioned by the hearing officer and the appellant's mother.

MassHealth's measurements, evaluation and conclusion are supported by the relevant facts in the hearing record, the regulations, and the instructions on the HLD Index Score Sheet. Using the accurate measurements, the MassHealth representative's score of 8 does not signify a severe and handicapping malocclusion. Additionally, there is no evidence of an automatic qualifying condition – there is no reverse overjet. Thus, the MassHealth orthodontist could not find the appellant to have an HLD Index score at the level indicating a severe and handicapping malocclusion. There were no other medical circumstances submitted at the hearing which would affect this decision.

Appellant's mother testified that her concern about the appellant's teeth is primarily for the one tooth that is in crossbite; however, there was no medical documentation to show that the appellant has a "medical necessity" for the comprehensive orthodontic treatment requested. While the appellant's dental condition might benefit from orthodontic treatment, the requirements of 130 CMR 420.431(E) are clear and unambiguous. MassHealth will cover orthodontic treatment "only" for members who have a "severe and handicapping malocclusion." Based on the information in evidence, the appellant's HLD Index score is below the threshold of 22 at this time, there is no automatic qualifying condition, and there is insufficient evidence to support a finding of a severe and handicapping malocclusion.

This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA