

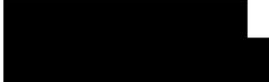
**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2308113
<b>Decision Date:</b>	11/28/2023	<b>Hearing Date:</b>	10/11/2023
<b>Hearing Officer:</b>	Thomas Doyle	<b>Record Open to:</b>	

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan, D.M.D.

**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>	PA- Orthodontics
<b>Decision Date:</b>	11/28/2023	<b>Hearing Date:</b>	10/11/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South 1	<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 August 28, 2023, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on September 11, 2023. (130 CMR 610.015(B); Ex. 2). 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 braces or full and comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

## Summary of Evidence

Appellant is currently a [REDACTED] year-old MassHealth member who appeared at hearing held in Quincy, with his mother and father. MassHealth was represented 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.

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 40. (Ex. 4, p. 12). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 15 on the scale. (Testimony). DentaQuest reached a score of 17. (Ex. 4, p. 18). Specifically, Dr. Kaplan testified that on the HLD scale, he awarded 0 points on the Anterior Open Bite while appellant's orthodontist awarded 8 points. Regarding Ectopic Eruption, Dr. Kaplan only awarded 9 points while appellant's orthodontist awarded 18 points. For Anterior Crowding, Dr. Kaplan awarded 0 points while appellant's orthodontist awarded 10 points. (Testimony; Ex. 4, p. 12). DentaQuest awarded 0 points for Anterior Open Bite. For Ectopic Eruption, DentaQuest awarded 0 points. DentaQuest awarded 5 points for Anterior Crowding. (Ex. 4, p. 18).

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 indicate the presence of an Autoqualifier, namely Posterior Crossbite of 3 or more maxillary teeth per arch. (Ex. 4, p. 12). DentaQuest did not find the presence of an Autoqualifier. (Ex. 4, p. 18). Dr. Kaplan testified he also did not find an Autoqualifier present based upon his in-person review. He only found one molar in crossbite. (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. Here, the appellant's orthodontic provider did not provide a Medical Necessity Narrative, nor was any additional supporting documentation submitted. (Ex. 4, p. 13). Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Testimony).

Appellant stated he did not feel good about his teeth. He stated he almost felt shame when he smiled. Appellant's mother stated she felt bad for her son because he felt embarrassed and was subject to bullying.

## **Findings of Fact**

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

1. Appellant is currently a ■-year-old MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 3-5).
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. 18; Testimony).
3. Appellant's provider submitted an HLD score of 40 points. (Ex. 4, p. 12).
4. Neither Dr. Kaplan nor DentaQuest found an auto qualifier to be present. (Testimony; Ex. 4, p. 18).
5. Appellant's orthodontist found the Autoqualifier of Posterior Crossbite of 3 or more maxillary teeth per arch to be present. (Ex. 4, p. 12).
6. 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. 13; Testimony).
7. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time. (Testimony).
8. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 4).

## **Analysis and Conclusions of Law**

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. (130 CMR 450.204; 130 CMR 420.410). In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq,<sup>1</sup> 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

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<sup>1</sup> 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the “Dental Manual” include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

that can include atypical or underlining health concerns which may be either dental or non-dental.

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). On this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

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. Here, the appellant's orthodontic provider calculated a score of 40 points on the HLD scale. Dr. Kaplan only found an HLD score of 15. (Testimony). Dr. Kaplan testified that after he carefully looked at photos and x-rays of appellant's mouth and he had the opportunity to examine appellant at the hearing. There are three main areas of contention. The first is Anterior Open Bite. Dr. Kaplan stated there was no Anterior Open Bite, so he awarded 0 points after his in-person evaluation of appellant while appellant's orthodontist awarded 8 points. The second criteria at issue are Ectopic Eruption. Dr. Kaplan testified that each ectopic tooth is awarded 3 points. He concluded after his in-person evaluation of appellant that 3 teeth were ectopic. Appellant's orthodontist found 6 teeth were ectopic. The third area of disagreement is Anterior Crowding. Appellant's orthodontist gave a score of 10 points, finding crowding on upper and lower teeth. Dr. Kaplan scored 0 points. Dr. Kaplan stated there was only crowding in the anterior (front) region but that is included in the scoring for ectopic teeth. He testified there was no crowding in the lower teeth.

If Dr. Kaplan's scoring on the HLD scale is credited, you would have 0 points for Anterior Open Bite, 9 points for Ectopic Eruption and 0 points for Anterior Crowding. You would then adjust the score of appellant's orthodontist to 13 on the HLD scale.

Appellant's orthodontist found the Autoqualifier of Posterior Crossbite to be present in appellant's mouth. (Ex. 4, p. 12). Dr. Kaplan testified this condition requires 3 upper molars to be in crossbite in relation to lower teeth. Dr. Kaplan testified that after his in-person examination of appellant, he only found 1 tooth to be in crossbite, so he did not find this Autoqualifier to be present.

I credit the testimony of Dr. Kaplan. I find Dr. Kaplan's explanation of his process in reviewing photos, x-rays and his in-person examination to be very thorough. He testified he was careful in his review and is a board-certified orthodontist. (Testimony). Dr. Kaplan is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that the opinion of the orthodontist present at hearing to be persuasive and plausible, especially as he was subject to cross examination by appellant and his mother and father. Appellant has not met his burden 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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Thomas Doyle  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 3, MA