

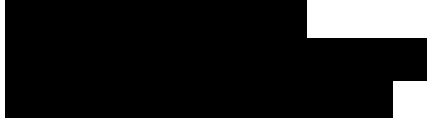
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308318
Decision Date:	11/17/2023	Hearing Date:	10/18/2023
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:



Appearances for MassHealth:

Dr. Harold Kaplan



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Approval for Orthodonture
Decision Date:	11/17/2023	Hearing Date:	10/18/2023
MassHealth Rep.:	Dr. Harold Kaplan	Appellant Rep.:	Appellant and Parents
Hearing Location:	Board of Hearings, Quincy		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated August 27, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on September 14, 2023 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

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

MassHealth was represented at hearing by an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on August 24, 2023. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.¹ The provider's HLD Form indicates a total score of 23, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	3	1	3
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	1	3	3
Anterior Crowding ²	Maxilla: Yes Mandible: No	Flat score of 5 for each ³	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	Yes	Flat score of 4	4
Posterior impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			23

As part of the HLD assessment, the provider also indicated that the appellant has a posterior crossbite of three or more maxillary teeth, which, if present, would be an automatic qualifier for approval. See Exhibit 4.

¹ The form also includes space for providers to indicate whether, regardless of score, a patient has one of the thirteen conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case alleged that the appellant has at least one auto-qualifying condition but did not provide a medical necessity narrative.

² The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores.

³ The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

The MassHealth representative testified that when DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	1	3	3
Anterior Crowding	Maxilla: No Mandible: No	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	Yes	Flat score of 4	4
Posterior impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			18

Because it found an HLD score below the threshold of 22 – and did not agree that the appellant had a posterior crossbite of at least three maxillary teeth – MassHealth denied the appellant’s prior authorization request on August 27, 2023. See Exhibit 1.

In preparation for hearing on October 18, 2023, the MassHealth orthodontist completed an HLD Form based on a review of the records. He also examined the appellant in person at the hearing. He found that the appellant had an HLD score of 20, calculated as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: Yes Mandible: No	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3

Posterior Unilateral Crossbite	Yes	Flat score of 4	4
Posterior Impactions or congenitally missing posterior teeth	0	3	0
Total HLD Score			20

The MassHealth orthodontist stated that the provider's score was over 22 because they improperly assigned points for both anterior crowding and ectopic eruption. He pointed out that the HLD scoring guidelines instruct providers to count only the higher of the two scores, which in this case is five points for crowding. In addition, the MassHealth representative testified that the appellant has only two posterior teeth in crossbite, and therefore does not meet the criteria for this auto-qualifying condition (though she does get four points on the HLD for having two teeth in crossbite). He used a tongue depressor that was pre-marked at five millimeters to show that the appellant's overjet is only three millimeters, and not the five millimeters that the provider had reported.⁴

The appellant appeared at the hearing with her parents. They asked several questions about the appellant's orthodontic case, including whether she is likely to have medical issues if she does not get orthodontic treatment (to which the MassHealth representative answered no), and whether her overjet may increase over time, leading to additional points on the HLD scale (to which he answered yes). They stated that the appellant's dentist is very concerned about her teeth and told them that she absolutely needs braces. They noted that this is their third appeal of a prior authorization denial for orthodontic treatment.

Findings of Fact

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

1. The appellant is a MassHealth member who is under the age of 21.
2. On August 24, 2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
3. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 23. The provider also reported that the appellant should qualify for coverage regardless of the HLD score because she has a posterior crossbite involving three or more teeth.
4. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18. It found she did not have three posterior teeth in crossbite.

⁴ The submission from the appellant's provider includes a lateral X-ray of the appellant's teeth with a measurement device on the side of the image for scale. See Exhibit 4 at 15.

5. On August 27, 2023, MassHealth notified the appellant that the prior authorization request had been denied.
6. On September 14, 2023, the appellant filed a timely appeal of the denial.
7. At hearing on October 18, 2023, a MassHealth orthodontic consultant reviewed the provider's paperwork and examined the appellant, finding an HLD score of 20.
8. The appellant does not have at least three posterior maxillary teeth in crossbite.
9. The provider erroneously assigned points for both anterior crowding and ectopic eruption. The provider should record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not count both scores.
10. The appellant's overjet measures only three millimeters.
11. The appellant's HLD score is below the threshold score of 22.
12. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft lip, cleft palate, or other cranio-facial anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated, excluding third molars; severe traumatic deviations; overjet greater than 9 mm; reverse overjet greater than 3.5 mm, crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding third 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 of 2 mm or more, of 4 or more teeth per arch; and anterior open bite of 2 mm or more, of 4 or more teeth per arch).
13. The appellant has not established that the service is otherwise medically necessary based on a severe deviation affecting the patient's mouth and/or underlying dentofacial structures; a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion; a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion; a diagnosed speech or language pathology caused by the patient's malocclusion; or a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

Analysis and Conclusions of Law

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*.

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, in two other circumstances: First, MassHealth will approve a request if there is evidence of a cleft lip, cleft palate, or other cranio-facial anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated, excluding third molars; severe traumatic deviations; overjet greater than 9 mm; reverse overjet greater than 3.5 mm, crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding third 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 of 2 mm or more, of 4 or more teeth per arch; and anterior open bite of 2 mm or more, of 4 or more teeth per arch.

Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion;
- A diagnosed speech or language pathology caused by the patient’s malocclusion; or
- A condition in which the overall severity or impact of the patient’s malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider's justification of medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must:

- clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g., general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider found an overall HLD score of 23; the provider also reported that the appellant should automatically qualify for coverage, regardless of HLD score, because she has a crossbite involving three or more posterior teeth. After reviewing the documents included with the provider's submission, MassHealth calculated a score of 18, and found the appellant's crossbite does not involve at least three posterior teeth. Upon review of the prior authorization documents and examination of the appellant at hearing, a different orthodontic consultant for MassHealth found the HLD score was 20, and also found the crossbite did not involve at least three posterior teeth.

After observing the appellant at hearing, I am persuaded by MassHealth's determination that the HLD score is below 22. The provider erroneously assigned points for both anterior crowding and ectopic eruption, as the HLD form instructs the provider to count points for only the more serious of the two conditions. In addition, both the appellant's presentation at hearing and the X-ray submitted by the provider (which included a measuring tool for scale) supports MassHealth's finding that the overjet is only three millimeters rather than the five millimeters reported by the provider. Taken together, the evidence indicates the appellant's HLD score is below 22.

I also agree with MassHealth that, contrary to the provider's HLD findings, the appellant does not have a posterior crossbite that includes three or more maxillary teeth. As the DentaQuest

orthodontist pointed out, the X-rays and the appellant's presentation in person indicate that only two of her posterior teeth are in crossbite. The appellant therefore does not have any of the auto-qualifying conditions that would result in approval regardless of the HLD score. There is also no evidence that treatment is otherwise medically necessary as set forth in Appendix D of the Dental Manual.

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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708