

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309351
<b>Decision Date:</b>	12/8/2023	<b>Hearing Date:</b>	11/27/2023
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, DentaQuest



*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>	Comprehensive Orthodontics
<b>Decision Date:</b>	12/8/2023	<b>Hearing Date:</b>	11/27/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated 09/05/2023, MassHealth informed the appellant that it denied her request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). A timely appeal was filed on the appellant's behalf on 10/05/2023<sup>1</sup> (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.

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<sup>1</sup> The appellant is a minor child who was represented in these proceedings by her mother.

## Issue

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

## Summary of Evidence

Dr. Perlmutter, a licensed orthodontist from DentaQuest, appeared on behalf of MassHealth as the orthodontic consultant. He testified that the appellant's provider requested prior authorization for comprehensive orthodontic treatment. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. He testified that the orthodontic provider submitted a prior authorization request on behalf of the appellant, who is under 21 years of age. The request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22 or an automatic qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization (PA) request, the appellant's orthodontic provider reported that the appellant had an auto-qualifying situation; specifically, that the appellant has an "impinging overbite," and therefore she asserted that the appellant qualifies for payment of his comprehensive orthodonture by MassHealth. The appellant's provider also submitted his calculations of an HLD Index score, totaling 18 points. She indicated on the HLD Index form that there was no "medical necessity" documentation included with the request.

The DentaQuest orthodontist testified that upon submission to MassHealth, DentaQuest received the PA packet, including the treating orthodontist's HLD Index score and photographs and X-rays of the appellant's teeth. DentaQuest reviewed the documentation and determined that the appellant's HLD Index score did not meet the necessary criteria for MassHealth payment for her comprehensive orthodontic services. DentaQuest determined that there was no impinging overbite, as defined on the HLD Index worksheet. Further, there were no other automatic qualifying conditions or documentation of medical necessity and no HLD Index score of 22 or more. As a result, DentaQuest denied the request on 09/05/2023.

Dr. Perlmutter testified that in preparation for the fair hearing he reviewed the appellant's materials that were provided to MassHealth with the prior authorization request from her orthodontist. In addition, at the fair hearing, Dr. Perlmutter obtained permission to examine the appellant's bite and

used the HLD Index to score her malocclusion. According to the photographs and X-rays, and the results of his physical examination of the appellant's malocclusion, Dr. Perlmutter testified that the appellant does not have an "impinging overbite," or any other automatic qualifying condition and she does not have an HLD Index score of 22 or more. Dr. Perlmutter referenced the X-ray and photos to show that the appellant's bottom front teeth do not come into contact with the tissue behind the front top teeth, as required to meet this automatic qualifying category. Further, he found that there was nothing in the submission to show that the appellant meets MassHealth's criteria for the payment of her comprehensive orthodontia. As a result, he upheld MassHealth's denial of the request for comprehensive orthodontic services.

The appellant's mother appeared at the fair hearing with the appellant. The mother testified that she was concerned about the appellant's front teeth because "food gets stuck" and they "bother" the appellant. She stated that the appellant's front teeth form "a triangle."

## **Findings of Fact**

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

1. The appellant is under 21 years of age (Testimony). She was represented in these proceedings by her mother (Exhibit 2).
2. On 08/30/2023, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
4. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index.
5. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
6. The appellant's orthodontic provider provided an HLD Index score of 18.
7. The appellant's orthodontic provider documented that the appellant has an automatic qualifying condition; specifically, an "impinging overbite."
8. No medical necessity documentation was included with the PA request by the appellant's treating orthodontist.

9. DentaQuest reviewed the treating orthodontist's submission and agreed with the treating orthodontist that the appellant's malocclusion did not meet the required 22 points for MassHealth's payment for her comprehensive orthodontic treatment.
10. DentaQuest determined that the appellant did not meet the criteria set out for the automatic qualifying condition of an impinging overbite.
11. DentaQuest, on behalf of MassHealth, denied the appellant's request for comprehensive orthodontic treatment on 09/05/2023.
12. The appellant appeared in person at the fair hearing with her mother.
13. At the fair hearing, the MassHealth orthodontist obtained permission to examine the appellant's malocclusion, using the HLD Index as a guideline.
14. Using measurements taken from the appellant's oral photographs, X-rays, the physical examination of her malocclusion, and other submitted materials, the MassHealth orthodontist determined that the appellant did not have a an HLD score of 22 or above or an automatic qualifying condition.
15. There is no evidence that the appellant's bottom front teeth come into contact with the tissue behind the top front teeth.
16. There was no other documentation of medical necessity for the comprehensive orthodontic treatment provided to MassHealth.
17. The appellant does not have an HLD score of 22 or above, no automatic qualifying condition and there is no documentation of medical necessity.

## **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*.

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. 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 HLD index score of 22.

In his submission to MassHealth, the appellant's treating orthodontist calculated an overall HLD Index score of 18, which does not meet the minimum points required for MassHealth payment of the orthodonture. The appellant's orthodontic provider noted on the HLD Index score sheet that the appellant has an "impinging overbite," a condition that if verified qualifies the appellant for payment for braces, regardless of an HLD Index score. At the fair hearing, Dr. Perlmutter testified that there is no evidence that the appellant has an "impinging overbite" as defined by the HLD Index score sheet.

The HLD Index score sheet defines an "impinging overbite" as "evidence of occlusal contact into the opposing soft tissue." The treating orthodontist provided no further information with his assertion that the appellant meets the criteria of this automatic qualifying condition. Dr. Perlmutter referenced the appellant's X-ray showing the profile of the front part of the appellant's head. Dr. Perlmutter directed the hearing officer to the front teeth and testified that when the appellant closes her mouth, the bottom front teeth touch the back of the front top teeth, not the tissue behind the top teeth. As a result, the appellant does not have an "impinging overbite," as defined by the HLD Index score sheet.

The appellant's mother testified that the appellant has some issues that may or may not be connected to her need for orthodonture. Dr. Perlmutter testified credibly and demonstrated a familiarity with the HLD Index score sheet. He was also available to be questioned by the hearing officer and cross-examined by the appellant's representative. Further, he testified credibly that no other information was provided to show medical necessity. Dr. Perlmutter's testimony, as a licensed orthodontist, was given greater weight than the testimony of the appellant's mother, who is not a clinical dental professional. There is nothing in the hearing record to show that the appellant's current situation meets MassHealth criteria for payment of braces. Accordingly, this 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA