

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309627
<b>Decision Date:</b>	12/4/2023	<b>Hearing Date:</b>	11/27/2023
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**

 Parents of  
Minor 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>	12/4/2023	<b>Hearing Date:</b>	11/27/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	Parents
<b>Hearing Location:</b>	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 08/31/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). A timely appeal was filed on the appellant's behalf<sup>1</sup> on 10/12/2023 (see 130 CMR 610.015(B) and Exhibit 2). 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.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431 and 130 CMR

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<sup>1</sup> The appellant is a minor child who was represented by her parents in this matter.

522.004, in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is under 21 years of age and she is eligible for, and enrolled in, the Children's Medical Security Plan (CMSP). The appellant was present at hearing with her parents. MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays, on 08/31/2023. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment, nor did she include a medical necessity narrative. The provider's HLD Form indicates that she found a total score of 23, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	10	1	6
Overbite in mm	7	1	7
Mandibular Protrusion in mm	0	0	0
Open Bite in mm	0	0	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding <sup>2</sup>	Maxilla: x Mandible: x	Flat score of 5 for each <sup>3</sup>	10
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>23</b>

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<sup>2</sup> 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.

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

MassHealth denied the appeal because CMSP does not cover orthodontics. DentaQuest did not complete an HLD Index score.

At hearing, Dr. Perlmutter explained that CMSP does not cover orthodontics. Dr. Perlmutter advised the appellant's parents that they could look into other MassHealth or Health Connector options to see if their daughter would qualify for a program that may cover orthodontics.

The appellant's parents confirmed the appellant's identity at the outset of the fair hearing. The mother stated that she thought the orthodontics were denied for medical necessity reasons. She stated that the appellant needs braces because of the way she talks and how her teeth affect her mental health.

## **Findings of Fact**

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

1. On 08/31/2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays (Exhibit 4).
2. The appellant has Children's Medical Security Plan, which does not cover orthodontic treatment (Testimony).
3. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 23 (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant is not on a coverage type that pays for orthodontics (Exhibit 4).
5. On 08/31/2023, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
6. On 10/12/2023, a timely appeal of the denial was filed on the appellant's behalf (Exhibit 2).

## **Analysis and Conclusions of Law**

Pursuant to 130 CMR 522.004(G), Children's Medical Security Plan benefits provided are described at M.G.L. c. 118E, § 10F. Included benefits are:

- (1) preventive pediatric care;

- (2) sick visits;
- (3) office visits, first-aid treatment, and follow-up care;
- (4) provision of smoking prevention educational information and materials to the parent, guardian, or the person with whom the enrollee resides, as distributed by the Department of Public Health;
- (5) prescription drugs up to \$200 per state fiscal year;
- (6) urgent care visits, not including emergency care in a hospital outpatient or emergency department;
- (7) outpatient surgery and anesthesia that is medically necessary for the treatment of inguinal hernia and ear tubes;
- (8) annual and medically necessary eye exams;
- (9) medically necessary mental-health outpatient services, including substance-abuse treatment services, not to exceed 20 visits per fiscal year;
- (10) durable medical equipment, up to \$200 per state fiscal year, with an additional \$300 per state fiscal year for equipment and supplies related to asthma, diabetes, and seizure disorders only;
- (11) dental health services, up to \$750 per state fiscal year, including preventive dental care, provided that no funds will be expended for cosmetic or surgical dentistry;
- (12) auditory screening;
- (13) laboratory diagnostic services; and
- (14) radiologic diagnostic services.

Under 130 CMR 450.105, a member is eligible for services and benefits according to the member's coverage type set forth in the regulation. According to 130 CMR 450.105(A)(1)(p), dental services are covered under MassHealth Standard. Conversely, 130 CMR 450.105(H) and 130 CMR 522.004(G)(11) provide that CMSP covers "dental health services, up to \$750 per state fiscal year, including preventive dental care, provided that no funds will be expended for cosmetic or surgical dentistry." Additionally, dental service code D8080 is not listed as a covered service under CMSP in Exhibit E of the MassHealth Dental Program Office Reference Manual. Finally, MassHealth's website<sup>4</sup> provides that orthodontic dentistry is not a covered service under CMSP.

The appellant has the Children's Medical Security Plan. Pursuant to 130 CMR 522.004(G), orthodontic treatment is not a benefit covered by CMSP. For this reason, the MassHealth decision was correct and the appeal is denied.

## Order for MassHealth

None.

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<sup>4</sup> See <https://www.mass.gov/service-details/services-covered-under-the-childrens-medical-security-plan> (last visited 11/30/2023).

## **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