

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2310766
Decision Date:	1/3/2024	Hearing Date:	12/04/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

 Mother  
Pro se

Appearance for MassHealth:

Dr. Katherine Moynihan



*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>	Prior Authorization – Orthodontics
<b>Decision Date:</b>	1/3/2024	<b>Hearing Date:</b>	12/04/2023
<b>MassHealth's Rep.:</b>	Dr. Moynihan	<b>Appellant's Rep.:</b>	Mother Pro se
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center	<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 October 19, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibits 1 and 4). The appellant filed this appeal in a timely manner on November 1, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization 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, in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member who appeared at hearing with his mother. MassHealth was represented at hearing by Dr. Katherine Moynihan, 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 October 16, 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 or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider's HLD Form indicates that she found a total score of 22, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	3	1	3
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)	0	3	0
Anterior Crowding <sup>1</sup>	Maxilla: x Mandible: x	Flat score of 5 for each <sup>2</sup>	10
Labio-Lingual Spread, in mm (anterior spacing)	6	1	6
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>22</b>

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 16. The DentaQuest HLD Form reflects the following scores:

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<sup>1</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>2</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	2	1	2
Overbite in mm.	2	1	2
Mandibular Protrusion in mm.	2	5	10
Open Bite in mm.	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
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>16</b>

Because it found an HLD score below the threshold of 22 and no autoqualifying conditions, MassHealth denied the appellant's prior authorization request on October 19, 2023.

At hearing, Dr. Moynihan completed an HLD form based on an in-person examination of the appellant and a review of the X-rays and photographs. She determined that the appellant's overall HLD score was 16, agreeing with DentaQuest's scoring. She also did not see any evidence of any autoqualifying conditions. Dr. Moynihan explained that the main difference between the appellant's provider's score and that of her and DentaQuest is the measurement of the labio-lingual spread (anterior spacing) and crowding. The appellant's provider measured the labio-lingual spread at 6 mm.; however, Dr. Moynihan stated she did not see any spacing (although for the benefit of the appellant's score, maintained the 2 points for labio-lingual spread that DentaQuest found) and DentaQuest measured it at only 2 mm. The appellant's provider also indicated that the appellant had anterior crowding of more than 3.5 mm in both the upper and lower teeth. Dr. Moynihan measured 2 mm. of crowding in the lower and 1.5 mm. in the upper, which is not enough crowding to for anterior crowding to be scored in the HLD form.

The appellant's mother responded that she was looking for orthodontic treatment for her son, who has autism, to prevent future issues. She provided a letter from the appellant's orthodontist which stated that "The patient's mother... wanted me to inform the Commonwealth of Massachusetts that her son... has autism and that she feels that he has a poor diet due to his malocclusion and could greatly benefit from orthodontic treatment..." She also included a letter from her son's pediatrician who stated that the appellant's autism causes "sensory dysregulation, high levels of anxiety, and has a poor diet, which consists of three main foods. [The appellant] does not get the

proper nutrients that a child his age should get and is more susceptible to long term dental problems...” The doctor noted that the appellant has a generalized anxiety disorder and “dental procedures are very anxiety-provoking and traumatic for him.” The appellant’s doctor stated that braces at this age “will prevent long term dental problems for him in the future and correct dental concerns at a younger age and time of his life so he will not have to undergo more severe treatment/procedures in the future.”

Dr. Moynihan responded that she does not see any inability to function based on the appellant’s bite that would prevent him from obtaining the proper nutrition. Braces would not fix or address the sensory or behavioral issues raised by his doctor. In fact, the sensory issues would probably make braces very difficult for the appellant to adjust to. Dr. Moynihan advised the appellant that he may be re-examined every six months and has until the age of 21 to be treated. Because the appellant’s HLD score is below 22 and there were no autoqualifiers present, the appellant does not have a handicapping malocclusion and MassHealth will not pay for comprehensive orthodontic treatment at this time. Dr. Moynihan explained that while the appellant’s bite would be improved with braces, his malocclusion is not severe enough for MassHealth to pay for it.

## **Findings of Fact**

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

1. On October 16, 2023, the appellant’s orthodontic provider 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 overall score of 22 (Exhibit 4).
3. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 16 and no conditions warranting automatic approval of comprehensive orthodontic treatment (Exhibit 4).
5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Testimony).
6. On October 19, 2023, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).

7. On November 1, 2023, the appellant filed a timely appeal of the denial (Exhibit 2).
8. At hearing, a MassHealth orthodontic consultant examined the appellant in person and reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 16. She also did not see any evidence of any autoqualifying conditions. (Testimony).
9. The appellant's HLD score is below 22.
10. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; 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 3<sup>rd</sup> molars); spacing of 10 mm. or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> 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 2 mm. or more of 4 or more teeth per arch; anterior open bite 2 mm. or more of 4 or more teeth per arch).
11. The appellant has autism, general anxiety disorder, sensory dysregulation, poor diet, and finds dental procedures very anxiety-provoking and traumatic (Exhibit 2).

## Analysis and Conclusions of Law

130 CMR 420.431(C)(3) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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.**

(Emphasis added).

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 handicapping malocclusion. MassHealth will also approve a

prior authorization request, without regard for the HLD numerical score, if there is evidence of one of the following automatic qualifying conditions: cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; 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 3<sup>rd</sup> molars); spacing of 10 mm. or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> 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 2mm or more of 4 or more teeth per arch; or anterior open bite 2 mm. or more of 4 or more teeth per arch.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient's malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or
- v. 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, 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

- i. 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);

- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- v. discuss any treatments for the patient's condition (other than the comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

(Appendix D)

The appellant's provider found an overall HLD score of 22. After reviewing the provider's submission, MassHealth found an HLD score of 16. Upon review of the prior authorization documents and an in-person evaluation at hearing, Dr. Moynihan found an HLD score of 16. All orthodontists agreed that the appellant did not have any autoqualifying conditions present in the mouth.

As Dr. Moynihan explained, the appellant's provider did not accurately measure and score certain conditions in the mouth. The appellant's provider should not have scored 10 points for anterior crowding because there is less than 3.5 mm. of crowding in both the upper and lower teeth. There was only 2 mm. of crowding in the lower and 1.5 mm. in the upper. The other significant difference between the appellant's provider's HLD score and that of Dr. Moynihan and DentaQuest was the measurement of the labio-lingual spread (or anterior spacing). Dr. Moynihan did not see any spacing and DentaQuest only measured 2 mm., whereas the appellant's provider indicated she saw 6 mm. of spacing. Dr. Moynihan's measurements and testimony are credible and her determination of the overall HLD score and the lack of autoqualifiers is consistent with the evidence.

Thus, the appellant's HLD score falls below the necessary 22 points and he does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. At hearing, however, the appellant's mother addressed the letters written by the appellant's orthodontist and doctor.

The letters from the appellant's orthodontist and doctor are insufficient to establish medical necessity. The orthodontist's letter is a statement of the mother's opinion, not that of the orthodontist. As to the doctor's letter, it does not establish that comprehensive orthodontic treatment will correct or significantly ameliorate any of the appellant's conditions or behaviors. The appellant's sensory dysregulation, anxiety, and poor diet are related to his autism and



generalized anxiety disorder, not his malocclusion.

For these reasons, 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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA