

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                  |                       |            |
|-------------------------|------------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied           | <b>Appeal Number:</b> | 2311845    |
| <b>Decision Date:</b>   | 2/14/2024        | <b>Hearing Date:</b>  | 01/08/2024 |
| <b>Hearing Officer:</b> | Kimberly Scanlon |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Katherine Moynihan

**Interpreter:** Zully Rodriguez



*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>     | 2/14/2024  | <b>Hearing Date:</b>     | 01/08/2024                         |
| <b>MassHealth's Rep.:</b> | Dr. Moynihan   | <b>Appellant's Rep.:</b> | Mother                             |
| <b>Hearing Location:</b>  | Tewksbury<br>MassHealth<br>Enrollment Center<br>Room 3 | <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 November 13, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431; Exhibit 1). The appellant filed this appeal in a timely manner on November 21, 2023 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior authorization is valid grounds 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, in denying the appellant's prior authorization request for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member who was represented at hearing by her mother. MassHealth was represented at hearing by Dr. Katherine Moynihan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays, on or about November 9, 2023. As required, her orthodontic provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form. The HLD Form requires a total score of 22 or higher for approval, unless the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The appellant's orthodontic 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 25, broken down as follows:

| Conditions Observed   | Raw Score                 | Multiplier                            | Weighted Score |
|---|---------------------------|---------------------------------------|----------------|
| Overjet in mm.  | 7                         | 1                                     | 7              |
| Overbite in mm.   | 8                         | 1                                     | 8              |
| 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: 5<br>Mandible: 5 | Flat score of 5 for each <sup>1</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>25</b>      |

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19. The DentaQuest HLD Form reflects the following scores:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|---------------------|-----------|------------|----------------|
| Overjet in mm.      | 7         | 1          | 7              |

---

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

|   |                           |                          |           |
|---|---------------------------|--------------------------|-----------|
| Overbite in mm.   | 4                         | 1                        | 4         |
| Mandibular Protrusion in mm.  | 0                         | 5                        | 0         |
| Open Bite in mm.  | 0                         | 4                        | 0         |
| Ectopic Eruption (# of teeth, excluding third molars)   | 0                         | 3                        | 0         |
| Anterior Crowding   | Maxilla: 0<br>Mandible: 5 | Flat score of 5 for each | 5         |
| Labio-Lingual Spread, in mm (anterior spacing)  | 3                         | 1                        | 3         |
| 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>19</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 November 13, 2023.

At hearing, Dr. Moynihan completed an HLD form based on a review of the X-rays and photographs. She determined that the appellant's overall HLD score was 15. She did not see any evidence of any autoqualifying conditions. Dr. Moynihan explained that the main difference between the scoring performed by MassHealth and her measurements centers around the 7 mm overjet, as she found only 4 mm. As to the differences in scoring performed by the appellant's orthodontic provider and MassHealth, she agreed with MassHealth in scoring 5 points only for anterior crowding - mandible (lower). To achieve 10 points in this category, arch length sufficiency must exceed 3.5 mm in both the maxilla (upper) **and** mandible. (Emphasis added). Here, the arch length sufficiency exceeds 3.5 mm in the mandible, not the maxilla.

The appellant's mother responded that the appellant's orthodontic provider stated that that the appellant requires braces, especially in the lower jaw area.

In response, Dr. Moynihan testified that the appellant would likely benefit from orthodontic treatment, however, based on the HLD Form, she does not currently meet the criteria necessary for approval. Dr. Moynihan advised the appellant's representative that she may be re-examined every six months by her orthodontic provider and she 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.

## Findings of Fact

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

1. On or about November 9, 2023, the appellant's orthodontic provider submitted a prior authorization request to MassHealth for comprehensive orthodontic treatment on behalf of the appellant (Exhibit 5).
2. The appellant's provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 25 (Exhibit 5, p. 11).
3. The appellant's provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment, nor did she indicate that a medical necessity narrative was submitted on behalf of the appellant. *Id.*
4. DentaQuest evaluated the appellant's prior authorization request on behalf of MassHealth, and its orthodontists determined that the appellant had an HLD score of 19, with no conditions warranting automatic approval of comprehensive orthodontic treatment (Exhibit 5, p. 18).
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 or about November 13, 2023, MassHealth notified the appellant that the prior authorization request submitted on her behalf was denied (Exhibit 1, Exhibit 5, p. 3).
7. On November 21, 2023, the appellant filed a timely appeal of the denial (Exhibit 2).
8. At hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found a HLD score of 15. She did not see any evidence of any autoqualifying conditions. (Testimony).
9. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Testimony; Exhibit 5).

## Analysis and Conclusions of Law

Per 130 CMR 420.431(C)(3), 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.

(130 CMR 420.431(C)).

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).

In the present case, the appellant's orthodontic provider found an overall HLD score of 25. After reviewing the provider's submission, MassHealth found an HLD score of 19. Upon review of the prior authorization documents, Dr. Moynihan found an HLD score of 15. All the orthodontists agreed that the appellant did not have any autoqualifying conditions present in the appellant's mouth.

As Dr. Moynihan explained, the appellant's orthodontic provider should not have scored 10 points for anterior crowding because there is less than 3.5 mm. of crowding in the maxilla. 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.

Because the appellant's HLD score falls below the necessary 22 points and she does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment, the appeal is denied.<sup>2</sup>

## **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.

---

Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA

---

<sup>2</sup> This denial does not preclude the appellant's orthodontic provider from re-submitting prior authorization requests for comprehensive orthodontic treatment on behalf of the appellant every 6 months upon reexamination until she reaches the age of 21.