

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2313740
<b>Decision Date:</b>	03/22/2024	<b>Hearing Date:</b>	01/29/2024
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Katherine Moynihan

**Interpreter:**



*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>	03/22/2024	<b>Hearing Date:</b>	01/29/2024
<b>MassHealth's Rep.:</b>	Dr. Moynihan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Tewksbury MassHealth Enrollment Center 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 7, 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 December 14, 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 his mother, who testified through an interpreter.<sup>1</sup> MassHealth was represented at hearing by Dr. Katherine Moynihan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor, who testified as follows:

The appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays, on or about October 31, 2023 (Exhibit 5, pp. 8-16). As required, his orthodontic provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form (Exhibit 5, p. 10). 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 indicated that the following autoqualifiers were applicable to the appellant: impinging overbite with evidence of occlusal contact into the opposing soft tissue and crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars). *Id.* The appellant's orthodontic provider calculated a HLD score of 40 points, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	6	1	6
Overbite in mm.	6	1	6
Mandibular Protrusion in mm	2	5	10
Anterior Open Bite in mm.	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 5 Mandible: 5	Flat score of 5 for each <sup>2</sup>	10
Labio-Lingual Spread, in mm (anterior spacing)	8	1	8
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>40</b>

The appellant's orthodontic provider did not indicate that a medical necessity narrative was submitted (Exhibit 5, p. 11).

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<sup>1</sup> An interpreter from ITI, Ms. Zully Rodriguez was scheduled in advance of hearing, however, the appellant's mother had her friend Victor translate at hearing.

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

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15.<sup>3</sup> The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	2	1	2
Overbite in mm.	5	1	5
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 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	8	1	8
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>15</b>

Because it found an HLD score below the threshold of 22 and found that no autoqualifying conditions were applicable, MassHealth denied the appellant's prior authorization request on November 7, 2023 (Exhibit 1).

At hearing, Dr. Moynihan completed an HLD form based on her examination of the appellant's mouth and review of the X-rays and photographs submitted. She determined that the appellant's overall HLD score was 16. Moynihan explained that the main difference between the scoring performed by MassHealth and her measurements centers around the 2 mm overjet, as she found 3 mm. She further explained that after examining the appellant's mouth, she agreed with MassHealth's remaining HLD scores as follows: 5 mm of overbite; 0 points for mandibular protrusion; and 0 points for Anterior Crowding. All orthodontists agreed with 8 mm for anterior spacing. As for the autoqualifying conditions that the appellant's orthodontic provider indicated were present, Dr. Moynihan stated that she did not see any evidence of either autoqualifying condition applicable here. Specifically, Dr. Dr. Moynihan did not see any evidence of an impinging overbite with occlusal contact into the opposing tissue. Nor did she find any evidence of 10 mm (or more) of crowding in either the maxillary or mandibular arch. Dr. Moynihan testified that because

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<sup>3</sup> DentaQuest's orthodontists did not find any autoqualifying conditions applicable to the appellant that would warrant automatic approval of comprehensive orthodontic treatment (See, Exhibit 5, p. 17).

the appellant's HLD score is below 22 and there were no autoqualifying conditions present, the appellant is not considered to have a handicapping malocclusion. Thus, MassHealth will not pay for comprehensive orthodontic treatment at this time. Dr. Moynihan stated that the appellant may be re-examined every six months by his orthodontic provider though, until he reaches the age of 21.

The appellant's mother asked if waiting for braces would cause immediate harm to the appellant's mouth. In response, Dr. Moynihan suggested that the appellant's mother contact the appellant's orthodontic provider if she has any concerns.

## **Findings of Fact**

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

1. On or about October 31, 2023, the appellant's orthodontic provider submitted a prior authorization request to MassHealth for comprehensive orthodontic treatment on behalf of the appellant.
2. The appellant's provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 40.
3. The appellant's provider also indicated that two conditions exist in the appellant's mouth that warrant automatic approval of comprehensive orthodontic treatment. They are: Impinging overbite with evidence of occlusal contact into the opposing soft tissue, and crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding third molars). The appellant's orthodontic provider did not indicate that a medical necessity narrative was submitted on behalf of the appellant.
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 15, with no conditions warranting automatic approval of comprehensive orthodontic treatment.
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.
6. On or about November 7, 2023, MassHealth notified the appellant that the prior authorization request submitted on his behalf was denied.
7. At hearing, a MassHealth orthodontic consultant examined the appellant's mouth and reviewed the provider's paperwork, photographs, and X-rays and calculated a HLD score of 16. She did find any evidence of any autoqualifying conditions that presently exist in

the appellant's mouth.

8. The appellant's back bite is normal.
9. The crowding in both appellant's arches is minimal.

## **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 calculated an overall HLD score of 40 and indicated that two (2) autoqualifying conditions existed in the appellant's mouth.<sup>4</sup> The two autoqualifying conditions that the appellant's orthodontic provider indicated were present are:

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<sup>4</sup> The provider did not include a medical necessity narrative.

impinging overbite with evidence of occlusal contact into the opposing soft tissue, and crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars). After reviewing the provider's submission, MassHealth calculated an HLD score of 15 and did not find any autoqualifying conditions existed in the appellant's mouth that would automatically warrant approval. At hearing, upon examination of the appellant's mouth and review of the prior authorization documents, Dr. Moynihan calculated an HLD score of 16, and also found no autoqualifying conditions.

There were several areas of discrepancy on the HLD forms, most notably in the areas of mandibular protrusion and anterior crowding. MassHealth did not find any mandibular protrusion apparent in the appellant's mouth, and the photographs submitted confirm that the appellant's back bite is normal. Thus, MassHealth's score of 0 in this category is supported by the record. With respect to the category of anterior crowding, MassHealth did not score any points here, and the photographs submitted confirm that there is not 3.5 mm of crowding in either the maxilla or mandible arch. Thus, MassHealth's score of 0 in this category is also supported by the record. With these adjustments, the appellant has not demonstrated that his HLD score meets the minimum score for approval. Finally, the appellant has not demonstrated that either alleged autoqualifying conditions exists at this time; the photos do not show an overbite with occlusal contact, and as noted above, the crowding in both arches is minimal.

Because 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, the appeal is denied.<sup>5</sup>

## **Order for MassHealth**

None.

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<sup>5</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 he reaches the age of 21.



## 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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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA