

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2313847
<b>Decision Date:</b>	4/22/2024	<b>Hearing Date:</b>	01/31/2024
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open:</b>	04/10/2024

**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>	Prior Authorization; Orthodontic Treatment
<b>Decision Date:</b>	4/22/2024	<b>Hearing Date:</b>	01/31/2024
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South (Telephone)	<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 29, 2023, MassHealth denied the Appellant's request for prior authorization for orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). The Appellant filed this appeal in a timely manner on December 29, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the Appellant's request for coverage of orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the Appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

### Summary of Evidence

The Appellant is a minor and she was represented by her mother, who appeared by telephone at the hearing. The Appellant's representative verified the Appellant's identity. On November 21, 2023, the Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment on behalf of the Appellant. As part of this request, the Appellant's orthodontist completed an Orthodontics Prior Authorization form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) form, and submitted these, along with photographs and x-rays of the Appellant's mouth. Exhibit 5. The Appellant's submission did not include a medical necessity narrative. *Id.*

At the hearing, MassHealth was represented by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes dental prior authorization determinations. The MassHealth representative testified that MassHealth only covers the cost of orthodontic treatment if there is a severe problem (a handicapping malocclusion). To determine whether there is a handicapping malocclusion, an HLD form is completed by both the orthodontic provider and MassHealth. The HLD form lists 13 auto qualifiers and 9 characteristics with corresponding numerical values. The MassHealth representative testified that for MassHealth to authorize payment for orthodontic treatment, MassHealth would need to find that an individual has an HLD score of at least 22 points or an auto qualifying condition.

The Appellant's orthodontist indicated that the Appellant had one auto qualifying condition—impinging overbite with evidence of occlusal contact in the opposing soft tissue—and calculated an HLD score of 36, based on 5 points for overjet, 12 points for overbite, 3 points for ectopic eruption, 5 points for anterior crowding, 5 points for labio-lingual spread, and 6 points for posterior impactions or congenitally missing posterior teeth. *Id.* at 9. Prior to the hearing, DentaQuest calculated that the Appellant had an HLD score of 9. *Id.* at 14. The records from DentaQuest indicated a grayed-out check mark on one of the auto qualifying conditions: "impactions where eruption is impeded but extraction is not indicated." *Id.*

At the hearing, the MassHealth representative testified that based on his examination of the Appellant's records, he also determined an HLD score of 9, based on 2 points for overjet, 5 points for overbite, and 2 points for labio-lingual spread. He stated that he did not understand how the Appellant's provider had determined a score of 36. The MassHealth representative testified that the Appellant had no auto qualifying conditions, and pointed to the Appellant's photos to explain that she does not have an impinging overbite because many of her lower teeth are still visible, as seen in the lower images of her bite. *Id.* at 11. The MassHealth representative explained that in order to qualify as an impinging overbite, her top teeth would need to completely cover the Appellant's lower teeth, which they do not. *Id.* The MassHealth representative testified that because the Appellant was not physically present for him to examine, he needed to rely on the x-rays and photos submitted by the Appellant's provider, in making his determination. The MassHealth representative testified that he would uphold the denial for treatment because it is not a handicapping malocclusion.

The Appellant's mother testified that the Appellant's primary care physician referred the Appellant to an orthodontist. The Appellant's mother testified that the Appellant's teeth clink against one another and that the Appellant is in pain due to her teeth. The Appellant's mother also testified that the Appellant's top teeth completely cover her lower teeth.

The hearing officer reopened the record in order to understand DentaQuest's position regarding the auto qualifying condition of impactions where eruption is impeded but extraction is not indicated. Exhibit 6. DentaQuest had until March 29, 2024, to submit a response, and the Appellant had until April 10, 2024, to respond.

On March 20, 2024, DentaQuest submitted the following response:

I had one of our internal Orthodontists, not involved with the first submission, review [the appeal].

The Claims Review Specialist (CRS) initially conditionally approved the case with the impacted teeth AQ, which was then sent to a Ortho Dental Consultant (DC) for final review. Upon review, the DC disagreed with the CRS's AQ approval and denied it with HLD=9. However in this process, the DC forgot to uncheck the impactions AQ box and proceeded with the denial coding that corresponds with his review and HLD score of 9.

The Ortho DC that re-reviewed the case commented:

"The Provider HLD indicates a Yes check mark for the deep bite AQ but not for the impactions AQ. The Deep bite AQ is not met, in my opinion. The Provider also overscored the case with an HLD =36. This scoring does not correspond with the photo/xray documentation provided.

The Panorex provided demonstrates #20 and 29 as late developing teeth, with 1/2 root development on #20 and 1/3 root development on #29.

The development of these teeth are anomalies with the rest of the dentition. The patient is [REDACTED] of age, and all other permanent teeth 2-15, 18, 19, 21-28, 30,31 have erupted.

I do not agree with the impacted teeth AQ because these teeth are not considered impacted with such little root development.

The CRS may have been confused, based on the chronological age of the patient. However with late developing teeth, the dental age /stage of development is evaluated for these particular teeth. They likely will develop on their own without intervention once there is more root development. Of course, new records can be

submitted in the future and reevaluated for D8080.

In summary, I uphold that there are no AQ present at this time, and I agree with the HLD score of 9 that the original reviewing DC provided.

I believe the impactions check mark was an error on the HDL form, as a carryover from the CRS initial review, and the check mark inadvertently was not removed.

I recommend upholding the denial for this [appeal].

Exhibit 6.

The Appellant did not submit a response to the Board of Hearings.

## **Findings of Fact**

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

1. The Appellant's orthodontic provider submitted a request for orthodontic treatment on behalf of the Appellant (Testimony; Exhibit 5).
2. The Appellant's orthodontic provider completed an Orthodontic Prior Authorization form and an HLD form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth (Exhibit 5).
3. The Appellant's orthodontic provider indicated that the Appellant had one auto qualifying condition and an HLD score of 36 (Exhibit 5 at 9).
4. DentaQuest calculated an HLD score of 9 points and no auto qualifying conditions (Exhibit 5 at 14; Exhibit 6).
5. Based on his evaluation of the Appellant's dental records, the MassHealth representative calculated an HLD score of 9 and no auto qualifying conditions (Testimony).
6. An HLD score of 22 is the minimum score indicative of a handicapping malocclusion (Testimony).
7. The Appellant's orthodontic provider did not include a medical necessity narrative (Exhibit 5).
8. Based on the testimony at the hearing and evidence in the record, I find that the Appellant has an HLD score of less than 22 and no auto qualifying conditions (Testimony, Exhibits 5 & 6).

## Analysis and Conclusions of Law

As a rule, MassHealth and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 420.410; 130 CMR 450.204. The MassHealth regulations at 130 CMR 420.410(A)(3) state:

The provider must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency. The MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the MassHealth agency

- (a) the treatment was medically necessary;
- (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and
- (c) it would not be clinically appropriate to delay the provision of the service.

130 CMR 420.410(A)(3).

In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq, covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 130 CMR 420.456. The MassHealth regulations at 130 CMR 420.431 provide service descriptions and limitations for orthodontic services. As relevant to comprehensive orthodontic requests, the regulation provides:

420.431: Service Descriptions and Limitations: Orthodontic Services

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

(B) Definitions.

- (1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.
- (2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive

orthodontic treatment.

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. Comprehensive orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization,

the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

130 CMR 420.431(A); (B); (C)(3).

Appendix D of the Dental Manual contains the authorization form for comprehensive orthodontic treatment.<sup>1</sup> As indicated by the paper record, MassHealth testimony, and the relevant regulations, appendices and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

1. the member has an auto qualifying condition as described by MassHealth in the HLD index;<sup>2</sup>
2. the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD index;<sup>3</sup> or
3. comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider.<sup>4</sup> Usually this involves a severe medical condition that can include atypical or underlying health concerns, which may be either dental or non-dental.

Here, the Appellant's orthodontist did not submit a medical necessity narrative letter and supporting documentation. MassHealth currently requires a score of 22 or higher on the HLD Index to find a handicapping malocclusion. While the Appellant's own orthodontist calculated an HLD score of 36 and an auto qualifying condition, DentaQuest's review found that the Appellant had a score of 9.

At the hearing, the MassHealth representative testified that the Appellant had an HLD score of 9 and no auto qualifying conditions, based on his analysis of the Appellant's records. I am sorry that the Appellant is experiencing pain in her teeth. However, I credit MassHealth's testimony regarding an HLD score less than 22 and no auto qualifying conditions. Based on the x-rays and photos provided, the Appellant has a normal bite and her lower teeth are visible. Exhibit 5 at 11. The Appellant's overbite and overjet depicted are not as dramatically spaced as indicated by the Appellant's provider. *Compare* Exhibit 5 at 9 with 10-13; *see also* Exhibit 6. The Appellant has not demonstrated that she has a handicapping malocclusion warranting overturning MassHealth's

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<sup>1</sup> Appendix D of the Dental Manual is available at <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.

<sup>2</sup> Found on page D-5 of Appendix D of the Dental Manual.

<sup>3</sup> Found on page D-6 of Appendix D of the Dental Manual.

<sup>4</sup> Found on page D-3 of Appendix D of the Dental Manual.



determination. Therefore, MassHealth was correct in denying the request, pursuant to 130 CMR 420.431. This appeal is denied.<sup>5</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.

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Emily Sabo  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

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<sup>5</sup> This denial does not preclude the Appellant or the Appellant's orthodontist from submitting a new prior authorization request to MassHealth every six months upon re-examination, until the Appellant reaches the age of 21. The Appellant's treating physician is also welcome to include a medical necessity narrative and supporting documentation with a future prior authorization request.