

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2400441
<b>Decision Date:</b>	4/12/2024	<b>Hearing Date:</b>	02/12/2024
<b>Hearing Officer:</b>	Marc Tonaszuck	<b>Record Open to:</b>	03/26/2024

**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>	Comprehensive Orthodontics
<b>Decision Date:</b>	4/12/2024	<b>Hearing Date:</b>	02/12/2024
<b>MassHealth's Rep.:</b>	Dr. C. Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated 11/12/2023, MassHealth informed the appellant that it denied a request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). A timely appeal was filed on the appellant's behalf on 01/09/2024<sup>1</sup> (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

A fair hearing was held on 02/22/2024, at which the parties appeared in person at the Springfield MassHealth Enrollment Center (Exhibit 3). At the hearing, the appellant's representative requested additional time to submit a letter from the appellant's physician to support the medical necessity for the requested comprehensive orthodontics. Her request was granted and the record remained open until 03/12/2024 for the appellant's submission and until 03/26/2024 for MassHealth's response (Exhibit 5). Both parties made submissions during the record open period (Exhibits 6 and 7).

---

<sup>1</sup> The appellant is a minor child who was represented in these proceedings by her mother.

## **Action Taken by MassHealth**

MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment.

## **Issue**

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

## **Summary of Evidence**

Dr. Carl Perlmutter, the MassHealth orthodontic consultant, is a licensed orthodontist from DentaQuest, who appeared in person at the fair hearing. The appellant, a minor child, appeared in person at the fair hearing with her mother. Exhibits 1-4 were admitted into the hearing record.

Dr. Perlmutter testified for MassHealth that the appellant's provider, Dr. [REDACTED] requested prior authorization for comprehensive orthodontic treatment on behalf of the appellant, who is under 21 years of age. He stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. The appellant's request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The orthodontist testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22. MassHealth submitted into evidence: HLD MassHealth Form; the HLD Index; PA packet; photos; and X-rays (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had an HLD score of 10 points, which did not reach the minimum score of 22 required for MassHealth payment of the orthodonture. The appellant's treating orthodontist did not identify an auto-qualifying situation indicated on the HLD Index form.

A letter of medical necessity dated 07/12/2022 was submitted from the appellant's pediatrician. It reads, "I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This has also

affected her speech. She was referred to a dentist and subsequently to an orthodontist who had recommended orthodontic braces” (Exhibit 2).

MassHealth/DentaQuest received the PA request with attachments on 11/09/2023 and it was reviewed by an orthodontist. The DentaQuest orthodontist agreed with the appellant’s treating orthodontist that the appellant did not have a demonstrated severe or handicapping malocclusion. The request was denied by DentaQuest on 11/12/2023.

At the fair hearing, the DentaQuest orthodontist requested and received permission from the appellant’s mother to examine the appellant’s malocclusion using the HLD Index score sheet. He testified that he reviewed the appellant’s materials that were provided to MassHealth with the prior authorization request from the orthodontist and used his own measurements of the appellant’s characteristics addressed by the HLD index. The DentaQuest orthodontist testified that his review confirmed the provider’s conclusion that the appellant’s HLD score did not reach the score of 22 necessary for a determination that of a severe and handicapping malocclusion. He also testified that there was no information provided to show that a different result is warranted. As a result, he upheld MassHealth’s/DentaQuest’s denial of the request for comprehensive orthodontic services.

Dr. Perlmutter addressed the appellant’s letter of medical necessity. He stated that the letter from the pediatrician does not meet the requirements for a medical necessity approval because the pediatrician has not shown that, if comprehensive orthodontics are approved, the appellant’s diagnosed medical issues will improve.

The appellant and her mother appeared in person at the fair hearing. The mother testified that the appellant has pain due to her inflamed gums. She has had speech therapy in the past but no longer attends. The mother is concerned about the appellant’s “crooked” teeth. The mother requested an opportunity to submit additional documentation to show medical necessity of the braces. Her request was granted and the record remained open in this matter until 03/12/2024 for her submission and until 03/26/2024 for MassHealth’s response (Exhibit 5).

On 02/15/2024, the appellant submitted a second letter from the appellant’s pediatrician. It states:

I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This also had affected her speech. She referred to a dentist and subsequently to an orthodontist, who had recommended orthodontic braces. She also needs speech therapy.

(Exhibit 6.)

On 03/05/2024, DentaQuest responded:

I do not see anything in the letter that relates to the malocclusion of being a handicapping type. Therefore, I am not going to suggest to overturn the decision of non-treatment for this particular patient. The letter must be much stronger and associated with a handicapping occlusion.

(Exhibit 7.)

## Findings of Fact

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

1. The appellant is under 21 years of age (Testimony).
2. On 11/09/2023, the appellant's orthodontic provider, Dr. [REDACTED] requested prior authorization for comprehensive orthodontic treatment (full braces) (Testimony, Exhibit 4).
3. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
4. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index score.
5. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
6. The appellant's orthodontic provider, selected by the appellant, calculated an HLD score of 10 points, based on measurements she took of the appellant's malocclusion.
7. The appellant's orthodontic provider did not allege that the appellant had an automatic qualifying condition.
8. A letter of medical necessity from the appellant's pediatrician was submitted with the prior authorization request.
9. A letter from the appellant's pediatrician dated 07/12/2022 states:

I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This has, also affected her speech. She was referred to a dentist and subsequently to an orthodontist who had recommended orthodontic braces.

10. DentaQuest reviewed the treating orthodontist's submission and agreed with her that the appellant's malocclusion did not meet MassHealth's requirements for payment for his comprehensive orthodontic treatment based on the HLD Index score of 10.
11. DentaQuest, on behalf of MassHealth, denied the appellant's request for comprehensive orthodontic treatment on 11/12/2023.
12. A timely appeal of MassHealth's determination was submitted to the Board of Hearings on 01/09/2024.
13. A fair hearing took place before the Board of Hearings on 02/22/2024.
14. The appellant and her mother appeared in person at the fair hearing.
15. MassHealth's representative at the fair hearing was an orthodontist employed by DentaQuest, MassHealth's dental contractor.
16. At the fair hearing, the MassHealth orthodontist requested and received permission to examine the appellant's malocclusion.
17. Using measurements taken from the appellant's oral photographs, X-rays, the measurements obtained from the examination and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant did not have a an HLD score of 22 or above or an automatic qualifying condition.
18. MassHealth also determined that the letter submitted by the appellant's mother from the pediatrician did not sufficiently identify the medical issue and how the comprehensive orthodontics would improve any medical issue.
19. At the fair hearing, the appellant's mother requested an opportunity to submit a second letter of medical necessity from the appellant's pediatrician.
20. The mother's request was granted and the record remained open until 03/12/2024 for the appellant's submission and until 03/26/2024 for MassHealth's response.
21. On 02/15/2024, the appellant's mother submitted a letter from the appellant's pediatrician. It states,

I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This also had affected her speech. She referred to a dentist and subsequently to an orthodontist, who had recommended orthodontic braces. She also

needs speech therapy.

22. On 03/05/2024, DentaQuest responded to the appellant's submission. His response states:

I do not see anything in the letter that relates to the malocclusion of being a handicapping type. Therefore, I am not going to suggest to overturn the decision of non-treatment for this particular patient. The letter must be much stronger and associated with a handicapping occlusion.

23. The DentaQuest orthodontist concluded that the appellant does not have a severe and handicapping malocclusion.

## Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

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

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22. Alternatively, verification of medical necessity not addressed by the HLD Index can also qualify a child for comprehensive orthodonture.

All orthodontists who reviewed this submission, including the appellant's provider, agree that the appellant does not meet MassHealth's criteria for payment of her comprehensive orthodontics. The appellant's treating orthodontist calculated an overall HLD Index score of 10 points, well below the threshold of 22 necessary for MassHealth payment. DentaQuest, when reviewing the submission, agreed with the appellant's provider. The MassHealth orthodontist at the fair hearing testified that he agreed with the appellant's provider in that the HLD score did not reach or exceed a 22.

The appellant's mother submitted two letters of medical necessity from the appellant's pediatrician. The first states:

I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This has also affected her speech. She was referred to a dentist and subsequently to an orthodontist who had recommended orthodontic braces.

The second states:

I am writing to you on behalf of my patient to request your kind office to allow her to get braces done for her teeth. Patient has been noted to have crowding of her teeth since last year. Because of this overcrowding, she has been complaining of pain since last year. This also had affected her speech. She referred to a dentist and subsequently to an orthodontist, who had recommended orthodontic braces. She also needs speech therapy.

DentaQuest responded:

I do not see anything in the letter that relates to the malocclusion of being a handicapping type. Therefore, I am not going to suggest to overturn the decision of non-treatment for this particular patient. The letter must be much stronger and associated with a handicapping occlusion.

The instructions included with the HLD Index form address letters of medical necessity as follows:

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 skeletal 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 a 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 diagnosed condition caused by the overall severity of the patient's malocclusion.



The above guidelines for medical necessity have not been met by the appellant's submissions. The appellant has no diagnosis made by a competent medical provider of a medical condition that will be improved by comprehensive orthodontics. There is no connection between the appellant's pain, her alleged speech deficiencies, or her mental health, and the way her teeth come together.

The appellant's mother testified that the appellant has pain and "crooked teeth." She also has inflammation of her gums. However, neither the appellant nor her orthodontist submitted orthodontic documentation to show that the appellant meets MassHealth's requirement that she have a severe, handicapping malocclusion. The appellant's provider, an orthodontist who was chosen by the appellant, indicated on the HLD Index form that the appellant's malocclusion does not meet the requirements of any of the automatic qualifiers, or meet the minimum HLD score of 22. It is the burden of the appellant (or appeal representative) to show that there exists a medical necessity for the requested comprehensive orthodonture. The appellant has failed to do so. There is nothing in the hearing record to show that the appellant's current situation meets MassHealth criteria for payment of comprehensive orthodontics. Accordingly, this 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.

---

Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA