


# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2401422
<b>Decision Date:</b>	6/10/2024	<b>Hearing Date:</b>	05/20/2024
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**

 Mother of Minor Appellant (In Person)

**Appearance for MassHealth:**

Dr. Harold Kaplan (Virtually)



*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>	Orthodontic Services
<b>Decision Date:</b>	6/10/2024	<b>Hearing Date:</b>	05/20/2024
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan, 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 Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated 11/26/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf<sup>1</sup> on 01/29/2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

A fair hearing was originally scheduled to take place on 04/22/2024; however, the DentaQuest representative did not appear at the fair hearing. The hearing was rescheduled to take place on 05/20/2024 (Exhibit 3).

### Action Taken by MassHealth

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

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared as the appeal representative with the appellant in person at the fair hearing. MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. Dr. Kaplan appeared virtually.

The appellant's provider, [REDACTED], submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 11/16/2023. 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 indicated that the appellant has an HLD score of 29, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	4	1	4
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: 5 Mandible: 5	Flat score of 5 for each	10
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>29</b>

The appellant's orthodontist did not identify any automatic qualifying condition, nor did he include a medical necessity narrative.

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:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
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: 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>16</b>

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 11/26/2023.

At hearing, Dr. Kaplan testified that he reviewed the materials submitted with the PA from [REDACTED]. Dr. Kaplan testified that the appellant has an HLD score of 17, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
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: 5	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
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>17</b>

The MassHealth orthodontist testified that his measurements did not result in an HLD score that reached the minimum HLD score of 22, which is necessary for MassHealth payment for comprehensive orthodontic treatment (full braces). Dr. Kaplan testified a member will score 5 points for anterior crowding on either arch. In this case, the appellant's provider added 10 points for crowding on both arches. The MassHealth orthodontist testified that the HLD Index instructs the orthodontist to score 5 points only if there is at least 3.5 mm of crowding among the six front teeth on either arch. MassHealth could find 3.5 mm of crowding on the mandibular (bottom) arch; however, not on the maxillary (top) arch. As a result, the total HLD score for anterior crowding is 5 points, not 10 points as the provider calculated.

Dr. Kaplan also testified that there is no evidence of a mandibular protrusion. He explained that a mandibular protrusion is a situation where the midline of a bottom tooth bites in front of the midline point of the corresponding top tooth. There is no evidence that the appellant has a mandibular protrusion. Therefore, instead of the 10 points assigned by the treating orthodontist in this area, MassHealth could give zero points.

Dr. Kaplan concluded that the appellant's malocclusion is not severe and handicapping, as would be evidenced by an HLD score of 22, an automatic qualifying condition or through a letter of medical necessity. He concluded that although the appellant might benefit from orthodonture, the appellant does not meet the requirements for MassHealth payment.

The appellant, a minor child, appeared at the fair hearing with her mother. The mother testified that [REDACTED] assured her that MassHealth would approve the appellant's braces. He convinced her to pay \$150.00 deposit to install the braces, which was done on the same day as the assessment for the PA. [REDACTED] informed the mother that MassHealth would reimburse her for the payments she made for the appellant's braces.

## Findings of Fact

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

1. On 11/16/2023, 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, calculated an HLD score of 29 points. He did not indicate that any automatic qualifying conditions exist (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 16, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
7. On 11/26/2023, MassHealth notified the appellant that the prior authorization request was denied (Exhibits 1 and 4).
8. On 01/29/2024, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 05/20/2023, a fair hearing took place before the Board of Hearings (Exhibit 3). The appellant and her mother appeared in person. The MassHealth orthodontist appeared virtually.
10. At the fair hearing, a MassHealth orthodontic consultant testified that he reviewed the materials submitted with the PA, including dental records, X-rays and photographs. Based on his measurements, his review of the provider's paperwork, photographs, and X-rays, MassHealth found an HLD score of 17 (Testimony).
11. The appellant does not have at least 3.5 mm of crowding among the top front six teeth (Testimony).
12. The appellant does not have a mandibular protrusion (Testimony).
13. The appellant has 3 mm of an overjet, 5 mm of overbite, and 4 mm of labio-lingual spread (Testimony).
14. The appellant's HLD score is below 22 (Testimony).
15. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, severe maxillary anterior crowding greater than 8 mm, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm)

(Testimony).

## **Analysis and Conclusions of Law**

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

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of [REDACTED] and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

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 severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, anterior impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth (“automatic qualifying condition” or “autoqualifier”).

The appellant’s provider documented that the appellant has an HLD score of 29. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 16 and no automatic qualifying condition. As a result, MassHealth denied the request for comprehensive orthodontics. The appellant appealed to the Board of Hearings and a fair hearing took place, at which MassHealth was represented by an orthodontist. The appellant and his mother appeared in person.

In preparation for the fair hearing, the MassHealth orthodontist reviewed the prior authorization documents. At hearing, the MassHealth orthodontist testified that he found an HLD score of 17 and no automatic qualifying condition.

First, in order for the malocclusion to score in the category of anterior crowding, there must be at least 3.5 mm of crowding in the anterior (front) six teeth on either arch. The appellant’s orthodontist checked off that the appellant has at least 3.5 mm of crowding on both the top and the bottom arches, scoring 10 points (5 for each arch). Dr. Kaplan testified that although the appellant has at least 3.5 mm of crowding in the anterior teeth of the mandibular (bottom) arch, there is not at least 3.5 mm of crowding in the six anterior teeth on the maxillary (upper) arch. Therefore, he could score

only 5 points for anterior crowding, not 10, as documented by the treating orthodontist.

Second, the appellant's provider scored 10 points for two mms of mandibular protrusion. According to the HLD Index instructions, a mandibular protrusion measurement "should record the greatest distance between any one upper central incisor and its corresponding lower central or lateral incisor." Dr. Kaplan showed that the appellant has no mandibular protrusion. There is no instance where the bottom tooth protrudes over the corresponding top tooth. The appellant has no instance of a mandibular protrusion. Therefore, no score could be assigned for this condition. Dr. Kaplan explained his scores to the appellant's mother and to the hearing officer, referencing the photographs of the appellant's teeth that were included with the PA request.

Finally, the MassHealth orthodontist testified that the appellant has an overjet measuring 5 mm (5 points), an overbite measuring 4 mm (4 points), and a labio-lingual spread of 3 mm (3 points). The total HLD Index score is 17 points, including the 5 points for anterior crowding (mandibular). Dr. Kaplan's score is supported by the photographs and other documents submitted with the PA request. Dr. Kaplan, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative.

The appellant's mother testified credibly that the appellant might benefit from orthodonture; however, she was unable to show that the appellant met the requirements set out by MassHealth for approval for payment of the orthodonture. Accordingly, the appellant has not shown by the requisite quantum of proof that MassHealth's erred in denying the request for comprehensive orthodonture. As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that he does not have a severe and handicapping malocclusion. Accordingly, MassHealth correctly denied this request for comprehensive orthodontic services and 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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 2, MA