


**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402354
Decision Date:	5/6/2024	Hearing Date:	03/18/2024
Hearing Officer:	Marc Tonaszuck		

Appearance for Appellant:

 Mother of Minor 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

Appeal Decision:	Denied	Issue:	Orthodontics
Decision Date:	5/6/2024	Hearing Date:	03/18/2024
MassHealth's Rep.:	Dr. Carl Perlmutter, DentaQuest	Appellant's Rep.:	Mother
Hearing Location:	Springfield MassHealth Enrollment Center	Aid Pending:	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 12/25/2023 MassHealth informed the appellant that it denied her request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431(C); Exhibit 1). The appellant filed a timely appeal on 02/15/2024 and, as a minor appellant, was represented by her mother in these proceedings (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

Did MassHealth correctly determined that the appellant is not eligible for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

Summary of Evidence

The DentaQuest consultant, Dr. Perlmutter, is an orthodontist who is licensed in Massachusetts. He appeared in person at the fair hearing, as did the appellant and her mother. Exhibits 1-4 were admitted into evidence.

Dr. Perlmutter testified on behalf of MassHealth that on 12/20/2023 the appellant's provider, [REDACTED] submitted to MassHealth on the appellant's behalf a prior authorization (PA) for comprehensive orthodontic treatment. Dr. Perlmutter stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. The request was considered after review of the oral photographs, X-rays, 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 representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score, or to find an automatically qualifying condition. A severe and handicapping malocclusion typically reflects a minimum score of 22 or an auto-qualifying condition. MassHealth submitted into evidence: Appellant's PA packet; photographs; X-rays; HLD MassHealth Form; and the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had one instance of an "automatic qualifier," whereby MassHealth approves orthodontic treatment without calculating an HLD score. Specifically, [REDACTED] indicated that the appellant has an impinging overbite. He then proceeded to calculate the following HLD Index score:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	7	1	7
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: X Mandible: X	Flat score of 5 for each	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	1	3	3

posterior teeth (excluding 3 rd molars)			
Total HLD Score			22

██████████ indicated on the HLD Index form that he was not including a medical necessity narrative.

When DentaQuest received the request for comprehensive orthodontics from ██████████ it reviewed the request and made a determination that the appellant's malocclusion does not meet the MassHealth guidelines for payment of the orthodontics. Specifically, DentaQuest determined that there is no evidence of an automatic qualifying condition, or that the appellant's HLD Index score reached the necessary 22 points. DentaQuest denied the request on 12/25/2023. DentaQuest scored the appellant's malocclusion 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: 0	Flat score of 5 for each	0
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 rd molars)	1	3	3
Total HLD Score			12

At the fair hearing, Dr. Perlmutter requested and received permission from the appellant's mother to physically examine the appellant's malocclusion. He made observations and measurements using the HLD Index as a reference. Dr. Perlmutter first testified that he reviewed the appellant's photographs, X-rays and all the other documentation that was provided to MassHealth with the prior authorization request from the appellant's orthodontist. According to the X-ray and photographs, and the results of his physical examination, the appellant does not have an impinging overbite as defined by the MassHealth guidelines. The DentaQuest representative stated that the instructions included with the HLD worksheet state that the impinging overbite is characterized by

“evidence of occlusal contact in the opposing soft tissue.” In this case, there is an X-ray showing the side view of the appellant’s malocclusion. He testified that on that X-ray it is clear that the bottom anterior teeth come into contact with the back of the top anterior teeth when the appellant’s mouth is closed. He also cited to the photographs included with the PA request, which show the soft tissue behind the appellant’s top front teeth. Dr. Perlmutter testified that the photographs, as well as his physical examination of the appellant’s mouth show there is no indication of indentations, ulceration or sores. Because the bottom anterior teeth do not come into contact with the tissue behind the anterior front teeth, the appellant’s malocclusion does not meet the definition of an impinging overbite.

Secondly, Dr. Perlmutter testified that his review of the appellant’s materials and his observations made during the physical examination do not show an HLD score of 22 or above or any support for the “medical necessity” for comprehensive orthodontics. Dr. Perlmutter’s measurements are as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	6	1	6
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: X Mandible:	Flat score of 5 for each	5
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 rd molars)	0	3	0
Total HLD Score			18

Dr. Perlmutter testified that the appellant’s orthodontist scored 10 points for anterior crowding, but he could not give the same score. Dr. Perlmutter testified that the HLD Index included instructions state that 5 points can be given for crowding of at least 3.5 mm among the six anterior (front) teeth on either arch. The appellant has at least 3.5 mm of crowding among the front top teeth; however, she does not have at least 3.5 mm of crowding among the six bottom front teeth. Accordingly, the appellant scores 5 points for anterior crowding, not 10 points as scored by the provider. The provider’s score must be reduced by 5 points, which places the total HLD Index score below the necessary 22 points. Without an HLD Index score of at least 22, an auto qualifying condition, or

evidence of other medical necessity, he defended DentaQuest's decision to deny the request for comprehensive orthodontics.

The appellant's mother appeared in person with the appellant. The mother testified that her request for braces is "a health concern." She is concerned that "later on, [the appellant] may not be able to chew her food" if she is not approved for braces. The mother stated that one of her other children has significant dental issues and she is afraid that those issue may be hereditary. She is "worried about [the appellant's teeth] rubbing on her gums and causing canker sores."

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 12/20/2023, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. On 12/25/2023, DentaQuest, on behalf of MassHealth, denied the appellant's prior authorization request, finding an HLD Index score of 12 points and no evidence of an auto qualifying condition (Exhibit 1).
4. On 02/15/2024, a timely fair hearing request was filed on the appellant's behalf (Exhibit 2).
5. A fair hearing was held on 03/18/2024. The appellant attended in person with her mother, as did the MassHealth orthodontist (Exhibit 3).
6. At the fair hearing, the MassHealth orthodontist requested and obtained permission to physically examine the appellant's malocclusion.
7. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
8. MassHealth employs a system of comparative measurements known as the HLD Index as a determinant of a severe and handicapping malocclusion.
9. An automatic qualifying condition on the HLD Index is a severe and handicapping malocclusion.
10. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.

11. The appellant's orthodontic provider calculated an HLD Index score of 22, scoring 10 points for anterior crowding on both arches.
12. The appellant's orthodontic provider checked the boxes on the HLD worksheet indicating that the appellant has an impinging overbite.
13. An impinging overbite, as defined by the HLD Index, is an automatic qualifying condition.
14. An impinging overbite is characterized by "evidence of occlusal contact in the opposing soft tissue."
15. Using measurements taken from the appellant's oral photographs, X-rays and other submitted materials, as well as his own observations from a physical examination, the MassHealth representative, a licensed orthodontist, determined that the appellant does not have an impinging overbite or an HLD score of at least 22 points.
16. Appellant has 3.5 mm of crowding among the six anterior teeth on the top arch.
17. Appellant does not have at least 3.5 mm of crowding among the six anterior teeth on the bottom arch.
18. The MassHealth orthodontist testified that the appellant does not have a severe and handicapping malocclusion.
19. Appellant's orthodontists checked "no" when asked if he was submitting a medical necessity narrative with the prior authorization request.

Analysis and Conclusions of Law

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, a minimum HLD index score of 22, or a medical necessity narrative.

In this case, the appellant's treating orthodontist calculated an overall HLD Index score of 22. He did not attach a medical necessity narrative. He checked off that the appellant has an automatic qualifying condition, to wit, an impinging overbite. An impinging overbite, if verified, is a MassHealth approval even without an HLD Index score of 22.

The MassHealth representative testified credibly how the appellant's treating orthodontist erred in identifying the automatic qualifying situation. He testified credibly and under oath that there was no evidence an impinging overbite. He indicated to the hearing officer on the HLD Index form the instructions printed next to the check box state there needs to be "evidence of occlusal contact in the opposing soft tissue" for this condition to exist as it is applied to the HLD guidelines. The appellant's X-ray submitted with the prior authorization request shows that the appellant's bottom anterior teeth come into contact with the back of the anterior top teeth, not the tissue behind the top teeth, when the appellant closes her mouth. He also testified credibly that his physical examination did not reveal any indentations in the tissue behind the top front teeth. Additionally, there is no other evidence that the appellant's bottom front teeth come into contact with the tissue behind the top front teeth. Therefore, I credit the DentaQuest testimony that there is no evidence of an impinging overbite, as defined by the MassHealth guidelines.

Likewise, the DentaQuest representative testified credibly that the appellant does not have an HLD score of 22 or above. MassHealth's HLD Index score is nearly identical to the treating orthodontist's, except in the score of the anterior crowding. The treating orthodontist indicated that the appellant has at least 3.5 mm of crowding among the six front teeth on both the top and bottom arches, scoring a total of 10 points (5 points for each arch). The MassHealth orthodontist demonstrated to the hearing officer that the appellant does indeed have at least 3.5 mm of crowding on the top arch, but not on the bottom arch. Therefore, he could only score 5 points for anterior crowding. The MassHealth orthodontist showed his measurements to the hearing officer and to the appellant's mother, using photographs, the measurements he made, and he was available for questioning by the hearing officer and cross-examination. As a result, DentaQuest's measurements are supported by the evidence in the hearing file. The appellant's HLD Index Score is 18. Accordingly, there is not a combination of characteristics of the appellant's malocclusions that measure 22 or above on the HLD index score.

The appellant does not have a severe and handicapping malocclusion as defined by MassHealth regulations and guidelines, nor is there any documentation to show medical necessity for the orthodontic treatment. Appellant's mother has not shown by the requisite quantum of proof that the appellant's comprehensive orthodontic treatment is medically necessary. MassHealth correctly denied the prior authorization request for orthodontic treatment. This appeal is therefore 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 2, MA