

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2402505
<b>Decision Date:</b>	5/6/2024	<b>Hearing Date:</b>	03/18/2024
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, DentaQuest

**Interpreter:**

Ukrainian



*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>	Orthodontics
<b>Decision Date:</b>	5/6/2024	<b>Hearing Date:</b>	03/18/2024
<b>MassHealth's Rep.:</b>	Dr. Carl 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 Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated 12/19/2023, 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 02/20/2024 (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).

### 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(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

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

## Summary of Evidence

The appellant is a minor MassHealth member who appeared at the fair hearing with his mother who represented him. MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. All parties appeared in person at the fair hearing. Exhibits 1-4 were admitted into evidence.

On 12/14/2023, the appellant's orthodontic provider, [REDACTED] submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires as a condition for approval a total score of 22 or higher or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has a condition which is an automatic qualifying condition, specifically, that he has "two or more congenitally missing teeth." The treating orthodontist did not find any other of the conditions that warrant automatic approval of comprehensive orthodontic treatment. He provided an HLD Index score sheet but did not provide a score.

DentaQuest received the PA packet from the treating orthodontist on 12/14/2023 and evaluated it on behalf of MassHealth. DentaQuest's orthodontist did not find any automatic qualifying conditions. Further, DentaQuest determined that the appellant did not have an HLD Index score of at least 22 points. Because DentaQuest found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 12/19/2023.

Dr. Perlmutter, a licensed orthodontist, represented MassHealth at the fair hearing. He testified that he received and reviewed the provider's packet, including documentation, photographs and X-rays, prior to the hearing. At the hearing, he requested and received permission from the appellant's mother to physically examine the appellant's malocclusion and make measurements that were applied to the HLD Index. He testified that the appellant has an overjet of 2 mm, an overbite of 2 mm, anterior maxillary crowding, and a labio-lingual spread of 4 mm. Taking all the conditions into consideration, Dr. Perlmutter's HLD Index score was 13. Additionally, he testified that the teeth the appellant's provider indicated are congenitally missing do not meet the HLD requirements because they were extracted, and are not congenitally missing. The HLD Index score sheet instructions define the automatic qualifying condition to be "two or more congenitally missing teeth (excluding 3rd molars). Teeth that are missing due to extraction (or other loss) will not be considered under this section." Dr. Perlmutter concluded that because there was no automatic qualifying condition present, no HLD score of at least 22 points, and no documentation of medical necessity, the request for comprehensive orthodontic services was denied.

The appellant's mother testified with the assistance of a Ukrainian language interpreter. She

stated that the appellant “complains that his front teeth are not correctly place and prevent him from chewing.” She also testified that the two teeth referenced by the treating orthodontist were extracted, after attempt to treat them in Ukraine. The appellant is “embarrassed” by his teeth, he has trouble cleaning his teeth and food “gets stuck.”

## Findings of Fact

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

1. The appellant is a MassHealth member who is under [REDACTED] years of age.
2. On 12/14/2023, the appellant’s orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
3. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, scoring for “two or more congenitally missing teeth,” which is an automatic qualifying condition (Exhibit 4).
4. The appellant’s provider did not provide an HLD Index score (Exhibit 4).
5. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
6. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 13 points, with no automatic qualifying condition (Exhibit 4).
7. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or when there exists an automatic qualifying condition (Testimony).
8. On 12/19/2023, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
9. On 02/20/2024, the appellant filed a timely appeal of the denial (Exhibit 2).
10. At hearing on 03/18/2024, a MassHealth orthodontic consultant requested and received permission from the appellant’s mother to measure various aspects of the appellant’s malocclusion. He reviewed the provider’s paperwork, photographs, X-rays, and the results of his physical examination.

11. The two teeth referenced by the treating orthodontist are not congenitally missing; they were extracted (Testimony).
12. The appellant has an HLD Index score of 13 points (Testimony).
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate, impinging overbite, impactions, severe traumatic deviations, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing of 10 mm or more, anterior crossbite of 3 or more teeth per arch, two or more congenitally missing teeth, lateral open bite, or anterior open bite of 2 mm or more).

## **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 21 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, impinging overbite, impactions, severe traumatic deviations, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing of 10 mm or more, anterior crossbite of 3 or more teeth per arch, two or more congenitally missing teeth, lateral open bite, or anterior open bite of 2 mm or more.

The appellant’s provider documented that the appellant has two or more congenitally missing teeth, which, if verified, is an automatic qualifying condition. The provider did not provide an HLD Index score. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 13 points and no automatic qualifying condition. DentaQuest denied the request on 12/19/2023.

At hearing, the MassHealth orthodontist physically examined the appellant’s malocclusion. Upon review of the prior authorization documents and the results of his physical examination, the

MassHealth orthodontic consultant found no automatic qualifying condition. He testified that he knows which teeth the appellant's provider referenced when he indicated the appellant has "two or more congenitally missing teeth"; however, they were extracted, as confirmed by the appellant's mother. The HLD Index score sheet instructions define the automatic qualifying condition to be "two or more congenitally missing teeth (excluding 3rd molars). Teeth that are missing due to extraction (or other loss) will not be considered under this section." Since the two teeth are not "congenitally missing," they do not meet the requirements for the automatic qualifying condition.

Dr. Perlmutter also provided his measurements of the appellant's malocclusion as applied to the HLD Index. He found that the appellant has an HLD Index score of 13 points, which does not reach the required 22 points for MassHealth to pay for the orthodontics.

Since the appellant's orthodontic provider did not calculate an HLD Index score of 22 or above, and there is no automatic qualifying condition, Dr. Perlmutter testified that the appellant does not meet the requirements for MassHealth payment for his comprehensive orthodonture. I credit Dr. Perlmutter's testimony and professional opinion. He 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. He also demonstrated to the hearing officer how the teeth in question do not meet the HLD Index definition of "congenitally missing teeth." Dr. Perlmutter, 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 may 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, MassHealth's testimony is given greater weight. As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that she 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