

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



**Corrected Appeal  
Decision:**

Denied

**Appeal Number:**

2403246

**Decision Date:**

5/14/2024

**Hearing Date:**

04/01/2024

**Hearing Officer:**

Marc Tonaszuck

**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>Corrected Appeal Decision:</b>	Denied	<b>Issue:</b>	Orthodontic Services
<b>Decision Date:</b>	5/14/2024	<b>Hearing Date:</b>	04/01/2024
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center Room 3	<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 02/19/2024, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibits 1 and 4). On 03/04/2024 a timely appeal was filed on the appellant's behalf (see 130 CMR 610.015(B) and Exhibit 2)<sup>1</sup>. 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

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

determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

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

The appellant's provider ("provider"), [REDACTED] submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 02/15/2024. 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 ("autoqualifier"). The provider indicated that the appellant has an HLD score of 16 points, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	4	1	4
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: Mandible:	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	0	1	8
Posterior Unilateral Crossbite	0	Flat score of 4 for each	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>

The appellant's orthodontist also identified an autoqualifier; specifically, that the appellant has more than 10 mm of spacing on his upper arch (maxillary). The appellant's provider did not 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 18. The DentaQuest HLD Form reflects the following scores:

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: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	7	1	7
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>18</b>

DentaQuest did not find an autoqualifier. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 02/19/2024.

At hearing, Dr. Perlmutter requested and received permission to examine the appellant's malocclusion and to take measurements of certain aspects. He testified that the appellant has an HLD score of 18, 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: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	7	1	7
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding	0	3	0

3 <sup>rd</sup> molars)			
<b>Total HLD Score</b>			<b>18</b>

The MassHealth orthodontist also testified that there are no autoqualifiers. He stated that he believes the appellant's treating orthodontist did not follow the HLD Index rules when scoring the appellant's malocclusion. He stated that the appellant has 8 mm of spacing on his upper arch, not at least 10 mm, as required to meet the criteria for an auto-qualifying condition. As a result, he concluded that his measurements do not support an HLD score of 22 and the appellant's malocclusion does not have any autoqualifiers. Therefore, MassHealth cannot approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified that she is concerned about the appellant's spacing, protrusion of the front two teeth, and the appellant's gums. Additionally, she is worried that the appellant's "teeth will turn in the spaces." Her orthodontist told her to appeal.

## Findings of Fact

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

1. On 02/15/2024 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 16 points (Testimony; Exhibit 4).
3. The provider noted that the appellant has an auto-qualifying condition; specifically, more than 10 mm of spacing on his maxillary arch (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 18, 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 02/19/2024, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).

8. On 03/04/2024, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 04/01/2024, a fair hearing took place before the Board of Hearings (Exhibit 3).
10. At the fair hearing, the MassHealth orthodontic consultant requested and received permission to physically examine the appellant's malocclusion and to apply measurements to the HLD Index.
11. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, X-rays, and the results of his physical examination, and found an HLD score of 18 points (Testimony).
12. The MassHealth orthodontist measured 8 mm of spacing among the teeth on the appellant's maxillary arch.
13. The appellant's HLD score is below 22.
14. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm. involving 4 or more teeth).

## **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, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm on an arch, 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 (“autoqualifiers”).

The appellant’s provider documented that the appellant has an HLD score of 16 with an auto-qualifying condition; specifically, spacing of more than 10 mm on his maxillary arch. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 18 and no autoqualifier. At hearing, upon review of the prior authorization documents, a different orthodontic consultant found an HLD score of 18 and no automatic qualifying condition.

There is no dispute that the appellant has an HLD Index score below 22, as determined by all reviewing orthodontists, including the appellant’s treating orthodontist. Accordingly, the appellant does not meet the necessary 22 points for MassHealth payment of his comprehensive orthodontia. The treating orthodontist indicated on the HLD Index score sheet that the appellant has at least 10 mm of spacing among the teeth on his top arch. This condition, if verified, is an auto-qualifying condition that warrants approval by MassHealth regardless of an HLD Index score.

Dr. Perlmutter measured 8 mm of spacing among the appellant’s top teeth. Dr. Perlmutter’s testimony is credible. Dr. Perlmutter’s measurement is supported by the photographs and X-rays as well as his physical examination of the appellant’s malocclusion. He is a licensed orthodontist, and he 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. The mother failed to present evidence that the appellant has a medical condition associated with his malocclusion. 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 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 1, MA