

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2405009
<b>Decision Date:</b>	05/28/2024	<b>Hearing Date:</b>	05/08/2024
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan



*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>	05/28/2024	<b>Hearing Date:</b>	05/08/2024
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Pro se with parent
<b>Hearing Location:</b>	Remote	<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 March 12, 2024, MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on March 28, 2024 (130 CMR 610.015 and Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for comprehensive orthodontic services.

## Summary of Evidence

MassHealth was represented by Dr. Harold Kaplan, an orthodontic consultant from the MassHealth contractor DentaQuest.<sup>1</sup> Dr. Kaplan testified that he is a licensed orthodontist with many years of clinical experience. Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment with X-rays and photographs. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 30 points (Exhibit 1, p. 10). Appellant's orthodontic provider scored 4 points for overjet, 5 points for overbite, 5 points for mandibular protrusion, and 10 points for upper and lower anterior crowding, 2 points for Labio Lingual Spread, and 4 points for Posterior Unilateral Crossbite. Appellant's orthodontist also indicated that Appellant has an impinging overbite with evidence of occlusal contact into the opposing soft tissue, and a posterior crossbite of 3 or more maxillary teeth (Exhibit 1, p.10). Each condition would automatically qualify Appellant for payment of orthodontic treatment. Dr. Kaplan testified that a DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 15 points, with 2 points for overjet, 5 points for overbite, 5 points for anterior crowding, 3 points for labio lingual spread-anterior spacing and no points for mandibular protrusion. No autoqualifying conditions were identified. (Exhibit 1, p. 7). Dr. Kaplan testified that he carefully reviewed the photographs and X-rays and after examining Appellant's dentition at hearing, arrived at a HLD score of 16 points. Dr. Kaplan testified that he scored 5 points for anterior crowding in the lower arch but did not find 5 points for anterior crowding in the upper arch which shows only very slight crowding. Dr. Kaplan found no points for mandibular protrusion, which he described as the relationship between the upper and lower first molars in the upper and lower jaws. HLD points for mandibular protrusion are scored when the lower first molar is more forward than the upper first molar. Dr. Kaplan testified that in Appellant's case mandibular protrusion is not present. Dr. Kaplan also stated that Appellant's posterior bite is good and does not show a posterior crossbite. He added that Appellant has a deep overbite for which he scored 5 HLD points, but he does not have an impinging overbite with evidence of occlusal contact or tissue damage.

Appellant's mother testified that Appellant's orthodontist determined that Appellant meets HLD scoring criteria and feels that braces should be put on right away to correct crowding and the overbite that will make Appellant's teeth more difficult to correct when he is older.

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<sup>1</sup> The hearing was conducted by telephone. Dr. Kaplan, Appellant, and his mother appeared in-person at the Tewksbury MassHealth Enrollment Center. Appellant's mother was offered a rescheduled hearing with an in-person hearing officer; however, she consented to proceeding with the hearing by telephone.

## Findings of Fact

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

1. Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment that included X-rays and photographs.
2. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 30 points. Appellant's orthodontic provider scored 4 points for overjet, 5 points for overbite, 5 points for mandibular protrusion, 10 points for upper and lower anterior crowding, 2 points for Labio Lingual Spread, and 4 points for posterior unilateral crossbite.
3. Appellant's orthodontist indicated that Appellant has an impinging overbite with evidence of occlusal contact into the opposing soft tissue, a posterior crossbite of 3 or more maxillary teeth, and a unilateral poster crossbite.
4. A DentaQuest reviewing orthodontist completed HLD measurements based on photographs and X-rays and arrived at a score of 15 points, with 2 points for overjet, 5 points for overbite, 5 points for anterior crowding, 3 points for labio lingual spread-anterior spacing and no points for mandibular protrusion. No autoqualifying conditions or posterior crossbites were identified.
5. Dr. Kaplan scored 16 HLD points with 5 points for anterior crowding in the lower arch; the upper arch shows only very slight crowding.
6. Mandibular protrusion is the relationship between the upper and lower first molars. HLD points for mandibular protrusion are scored when the lower first molar is more forward than the upper first molar.
7. Dr. Kaplan scored no points for mandibular protrusion and the condition is not present in Appellant's dentition.
8. There is no evidence of a posterior crossbite involving 3 or more teeth; a unilateral posterior crossbite, or an impinging overbite with occlusal contact or tissue damage.

## Analysis and Conclusions of Law

Regulation 130 CMR 420.431(C)(3) states in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards 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 handicapping malocclusion.

Here, Appellant’s orthodontic provider scored 4 points for overjet, 5 points for overbite, 5 points for mandibular protrusion, 10 points for upper and lower anterior crowding, and identified two autoqualifying conditions, impinging overbite with tissue damage, and posterior crossbite involving 3 or more teeth. Dr. Kaplan reviewed the photographs and X-rays and after examining Appellant’s dentition at hearing scored 16 points on the HLD Form, with 5 points for anterior crowding in the lower arch and no points for anterior crowding in the upper arch because crowding does not exceed 3.5 mm.<sup>2</sup> Dr. Kaplan testified that Appellant’s upper arch shows very little crowding which does not equal or exceed 3.5mm of crowding. Next, Dr. Kaplan defined mandibular protrusion and testified that it is not present because Appellant’s lower jaw is not too far forward in relation to the upper jaw and Appellant’s posterior bite in this regard is ideal. Dr. Kaplan further testified that Appellant does have a deep overbite for which 5 points were allowed but does not have an impinging overbite causing tissue damage which would be observable on examination.<sup>3</sup> Appellant’s orthodontic provider identified a deep overbite also scoring 5 points; however, Appellant’s orthodontist did not characterize the overbite as impinging in a letter submitted with the prior authorization request (Exhibit 1, p. 17).

Moreover, Dr Kaplan testified based on his in-person examination that Appellant does not have a posterior crossbite involving 3 or more teeth or a unilateral posterior crossbite. Appellant’s orthodontist identified posterior crossbite as a specific concern and included a treatment plan with a pallet expander to correct posterior crossbite which may not be fully corrected and would require surgical intervention in adulthood for full correction if expander does not work

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<sup>2</sup> See Exhibit 1, pp. 10, and the MassHealth Dental Manual, Transmittal DEN 111, 10/15/2021 available at: <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>. If anterior crowding exceeds 3.5mm in an arch, each arch is scored with 5 points per arch, with a maximum combined score of 10 points.

<sup>3</sup> See fn. 2: Impinging overbite is defined in Appendix D of the *Dental Manual* which designates for automatic approval: Impinging Overbite with evidence of occlusal contact into the opposing soft tissue.

(Exhibit 1, p. 17). The discrepancies in Appellant's orthodontist's HLD scoring and HLD scoring done by Dr. Kaplan, and DentaQuest are significant. Dr. Kaplan is a licensed orthodontist with many years of clinical experience. Dr. Kaplan examined Appellant's dentition in-person, and identified specific areas of the HLD scoring that are overstated in the prior authorization request or are not present in Appellant's dentition, particularly a posterior crossbite. Dr. Kaplan's testimony is corroborated by HLD scoring completed by the DentaQuest reviewing orthodontist who also scored below 22 HLD points based on photographs and X-rays, and found no mandibular protrusion, no posterior crossbite involving 3 or more teeth, no unilateral posterior crossbite, scored no points for anterior crowding in the upper arch, and found no impinging overbite (Exhibit 1, p. 7). For these reasons I find Dr. Kaplan's testimony credible and conclude that the evidence submitted by Appellant's orthodontist relating to an autoqualifying posterior crossbite is not sufficient to overturn the MassHealth determination.<sup>4</sup> Further, I find that Appellant's HLD score is below 22 points, and no autoqualifying conditions are present at this time.

For the reasons above the appeal must be denied; however, the MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years of age, once per six (6) months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary and can be initiated before the member's twenty-first birthday (130 CMR 420.421(C)(1)). Thus, Appellant can be reevaluated for comprehensive orthodontics, and submit a new prior authorization request 6 months after the last evaluation.

## **Order for MassHealth**

None.

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<sup>4</sup> 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).

## **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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Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest