

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2412190
<b>Decision Date:</b>	10/25/2024	<b>Hearing Date:</b>	09/09/2024
<b>Hearing Officer:</b>	Christopher Jones		

**Appearances for Appellant:**



**Appearance for MassHealth:**

Dr. Katherine Moynihan



*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>	Prior Authorization – Orthodontia
<b>Decision Date:</b>	10/25/2024	<b>Hearing Date:</b>	09/09/2024
<b>MassHealth's Rep.:</b>	Dr. Katherine Moynihan	<b>Appellant's Reps.:</b>	Pro se; Mother
<b>Hearing Location:</b>	Charlestown 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 July 19, 2024, MassHealth denied the appellant's prior authorization request for orthodontia. (See Exhibits 1; 5; 130 CMR 420.431.) The appellant filed this appeal in a timely manner on August 7, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for orthodontia.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that comprehensive orthodontia was not medically necessary because the appellant does not have a Handicapping Labio-Lingual Deviations Score of at least 22 points.

## Summary of Evidence

The appellant's provider submitted a prior authorization request on the appellant's behalf seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations ("HLD") Form. The appellant's orthodontist identified the appellant as having an HLD Score of 31 based upon: three millimeters of overjet; three millimeters of overbite; three millimeters of mandibular protrusion (totaling 15 points); and anterior crowding greater than 3.5 millimeters in both front arches (totaling 10 points). (Exhibit 5, pp. 7-15.)

DentaQuest, MassHealth's dental benefits administrator, reviewed the submitted images and determined that the appellant's HLD Score was 14 points. DentaQuest did not see any mandibular protrusion or severe crowding in the upper front teeth. They did find three points of labio-lingual spread and crowding of the lower front teeth. (Exhibit 5, p. 6.) At the hearing, Dr. Moynihan testified that MassHealth only pays for orthodontia when the member's bite is bad enough to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion."

Dr. Moynihan looked at the appellant's bite in person and also found 14 points on the HLD Scale. She did see one millimeter of mandibular protrusion, but she did not believe there was anterior crowding of 3.5 millimeters in the lower front arch. She testified that the appellant's lower front teeth are not correctly aligned, but they are all slanted in the same direction. She opined that barely 1.5 millimeters of space was needed to align these teeth, and this did not qualify as crowding. The appellant also had a palate expander in place, and it is possible that the appellant's upper crowding would have been worse prior to the palate expander being placed. Now, there is only one very minor point of crowding in the appellant's upper front teeth.

Dr. Moynihan explained a mandibular protrusion is where an upper molar bites behind the corresponding lower molar. In the submitted images, it was not apparent that the appellant had a mandibular protrusion. She did see a minor mandibular protrusion in person, but only of one millimeter. If there were three millimeters of mandibular protrusion, the tooth in front of the molar would also be displaced, but it is in correct alignment. She explained that the appellant can return every six months to be reevaluated, and if her condition worsens, she may be eligible for coverage in the future.

The appellant's mother understood that she did not qualify, but she felt her daughter's teeth were very bad.

## Findings of Fact

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

1. The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found an HLD Score of 31 based, in part, upon anterior crowding in excess of 3.5 millimeters in both the upper and lower arches, and three millimeters of mandibular protrusion. (Exhibit 5, p. 9.)
2. MassHealth denied comprehensive orthodontia, finding an HLD Score of 14 points with no mandibular protrusion and crowding in the lower front teeth only. MassHealth agreed with the provider that the appellant has three millimeters each of overjet and overbite. (Exhibit 5, p. 3-6, 9.)
3. There is one millimeter of mandibular protrusion that is visible in person, but not in the submitted photographs. The teeth of the lower front arch do not overlap by at least 3.5 millimeters, as the teeth are all slanted in the same direction. (Exhibit 5; Testimony by Dr. Moynihan.)
4. The appellant has a palate expander in place that may have already reduced the crowding in her upper front teeth. There is not currently 3.5 millimeters of crowding in the upper arch. (Testimony by Dr. Moynihan.)

## Analysis and Conclusions of Law

MassHealth covers orthodontic services when it determines them to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.<sup>1</sup> (130 CMR 450.204.) Pursuant to 130 CMR 420.431(C)(3), MassHealth "pays for comprehensive orthodontic treatment ... 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." The regulations do not speak directly to what conditions qualify as "severe and handicapping" except to specifically cover "comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies ... ." (130 CMR 420.431(C)(3).)

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<sup>1</sup> The Dental Manual and Appendix D are available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited September 19, 2024.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"). (Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>, last visited September 19, 2024.)

The HLD Scale is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth made a policy decision that a score of 22 or higher signifies a “severe and handicapping malocclusion,” ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

The ORM defines “Anterior Crowding” as

Arch length insufficiency [in excess of] 3.5 mm. Score only fully erupted incisors and canines. Mild rotations that may react favorably to stripping or mild expansion procedures are not to be scored as crowded. Enter 5 points for maxillary and mandibular anterior crowding. If condition no. 5, ectopic eruption, is also present in the anterior portion of the mouth, score only the most severe condition. Do not score both conditions.

(ORM, App. B., p. 6.)

A mandibular protrusion is “measured from the buccal groove of the first mandibular molar to the MB cusp of the first maxillary molar. The measurement in millimeters is entered on the form and multiplied by 5.” (ORM, App. B., p. 6.)

During the hearing, Dr. Moynihan showed in the photographs where the mandibular protrusion would be measured and highlighted that there did not appear to be a mandibular protrusion in the photographs. In person she measured one millimeter of mandibular protrusion, but did not see three millimeters. Further, she noted that three millimeters of mandibular protrusion would be quite pronounced and displace other teeth in the mouth, which she did not observe. Reducing the provider’s score by these 10 points, the provider’s score would be 21 points.

Regarding the appellant’s upper teeth, it is possible that the appellant had more significant crowding in the past, but she currently has a palate expander, and only minimal crowding remains. Regarding the lower teeth, the appellant’s teeth are all incorrectly aligned, but Dr. Moynihan’s opinion is that they are not crowded. Because the teeth are all rotated in the same direction, they are not overlapping and not technically crowded. Dr. Moynihan argued that these teeth should be straightened, but they do not qualify as crowded. She points to the ORM instruction regarding anterior crowding, which instructs not to count mild rotations.

Even if the appellant’s lower teeth currently qualify as crowded, the upper teeth do not, potentially because they have already received treatment to alleviate crowding. After these adjustments, no orthodontist’s score reaches the needed 22 points. The appellant does not qualify for MassHealth payment for orthodontia at this time, 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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Christopher Jones  
Hearing Officer  
Board of Hearings

MassHealth Representative: DentaQuest 1, MA