

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2412586
<b>Decision Date:</b>	02/14/2025	<b>Hearing Date:</b>	12/16/2024
<b>Hearing Officer:</b>	Alexandra Shube	<b>Record Open to:</b>	02/10/2025

**Appearances for Appellant:**



**Appearance for MassHealth:**

*Via Teams Videoconference:*


Dr. Katherine Moynihan, Orthodontist

**Interpreter:**



*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 – Orthodontics
<b>Decision Date:</b>	02/14/2025	<b>Hearing Date:</b>	12/16/2024
<b>MassHealth's Rep.:</b>	Dr. Katherine Moynihan	<b>Appellant's Reps.:</b>	
<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 July 9, 2024, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibits 1 and 5). The appellant filed this appeal in a timely manner on August 14, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization is a valid basis for appeal (see 130 CMR 610.032).

The hearing was initially scheduled for October 3, 2024, but on September 26, 2024, the Board of Hearings received a rescheduling request from the appellant's recently retained attorney. (Exhibit 3). The rescheduling request was granted and the hearing rescheduled for December 16, 2024. (Exhibit 3).

At hearing, at the request of the appellant, the record in the appeal was held open until January 13, 2025 to allow the appellant time to submit a medical necessity narrative. (Exhibit 8). The MassHealth representative was given until January 20, 2025 to review and respond to the

appellant's submission. (Exhibit 8). On January 10, 2025, the appellant requested an extension of the record open period until February 3, 2025. (Exhibit 9). This request was granted and MassHealth was given until February 17 to review and respond. (Exhibit 9). Ultimately, the record closed on February 10, 2025, after this hearing officer did not receive any additional documentation and the appellant's attorney confirmed that he had nothing further to submit. (Exhibit 9).

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

## Summary of Evidence

The appellant, a minor MassHealth member, was present at hearing with her mother and two attorneys. MassHealth was represented at hearing via Teams videoconference by Dr. Katherine Moynihan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and x-rays, on June 19, 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. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment and did not submit a medical necessity narrative. The provider's HLD Form indicates that she found a total score of 20, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
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 <sup>1</sup>	Maxilla: x Mandible: x	Flat score of 5 for each <sup>2</sup>	10
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
Posterior Unilateral Crossbite	1	Flat score of 4	4
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>20</b>

When DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists also did not find any of the conditions that would warrant automatic approval of comprehensive orthodontic treatment and determined that the appellant has an HLD score of 14. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
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: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	1	Flat score of 4	4
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>14</b>

Having found an HLD score below the threshold of 22, no auto-qualifying conditions, and no medical necessity, MassHealth denied the appellant's prior authorization request on July 9, 2024.

At hearing, Dr. Moynihan completed an HLD form based on a review of the x-rays and photographs. She determined that the appellant's overall HLD score was 13, as calculated below:

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<sup>1</sup> The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption or the anterior crowding, but not to count both scores.

<sup>2</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
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: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	1	Flat score of 4	4
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>13</b>

She also did not see any evidence of any autoqualifying conditions. She explained that to score anterior crowding in the HLD form, it must be severe crowding greater than 3.5mm. The appellant does not have any crowding in the upper arch, where she actually has spacing. As to the lower arch, at most, the appellant has 1.5mm of crowding, which is far from the 3.5mm needed to score anterior crowding in the HLD form. The appellant's orthodontist, whose HLD score was also under 22, scored the form inaccurately by including anterior crowding.

In response to questions from the appellant's attorney, Dr. Moynihan explained that she is able to take measurements from photographs and x-rays based on training and many years of doing this and understanding what a millimeter is. She also explained that while some of these orthodontic hearings are conducted in-person where she can take measurements of the child in-person, rather than based on photographs and x-rays, the appellant's own orthodontist did an in-person examination and found less than the needed 22 points and no autoqualifying conditions. Additionally, while it can be helpful to explain the process in-person, during Covid, all these hearings were successfully conducted remotely. If the appellant were to submit another prior authorization and be denied again, she could request a different location for an in-person hearing; however, based on the current records, Dr. Moynihan did not think it would be worthwhile.

The appellant, through her attorney, read an affidavit explaining how her teeth affect every aspect of her life including self-image, bullying, social anxiety, eating, speaking, school participation, and overall mental health. She feels really bad about herself when she looks in the mirror because her teeth make her feel insecure. She feels like her classmates are all getting braces except for her and she feels like she stands out. She compares herself to people whose teeth are not "messed up". She has anxiety and depression which first started in sixth grade when people in school would

make fun of her teeth. There was a group of kids who would make mean comments about how she looked, specifically her teeth. She is at a new school now, but she is always thinking about her teeth and it keeps her from being confident.

The appellant stated that she has social anxiety which makes her overthink things and she worries about her teeth a lot. She covers her mouth when she talks to friends or adults. The way that she feels about her teeth make her more shy and she does not like meeting people in person, but thinks if she had braces she would be more confident about that. Her teeth bother her when she eats. Sometimes when eating, her teeth feel uncomfortable, especially with hard foods like fresh fruits and vegetables. Food gets stuck in the gaps in her teeth and she tries to bite hard things with her side teeth.

She also worries about mispronouncing words when she speaks because of the gap between her front teeth. Because of this, she tries to avoid certain words. Her anxiety about her teeth also makes her participate less in school. She doesn't volunteer to read aloud or raise her hand in class because she worries about saying a word wrong or having someone say something bad about her teeth. In a social studies class, there was a debate where credit was based on talking and she decided to take a zero rather than speak in front of people. Finally, her overall mental health is affected by her teeth and not having braces. She is less happy than she could be because of her teeth and feels that having braces would make her feel happier.

The appellant's attorneys provided a letter from the appellant's pediatrician that stated the following in total:

[The appellant] is a patient in my practice and she has a diagnosis of Major depressive disorder and Generalized anxiety disorder, as well as school related social stressors and bullying. She was in the past followed by a therapist and placed on medication.

They argued that the appellant should fall into the category of medical necessity based on the doctor's letter combined with the appellant's affidavit. They also provided journal articles and studies about the effect of malocclusion on the self-esteem of adolescents, noting that it is particularly hard on teen girls.

Dr. Moynihan explained the requirements for a medical necessity narrative, which the pediatrician's letter does not meet. The appellant could include a medical necessity narrative for MassHealth's consideration in future prior authorization requests. Dr. Moynihan advised the appellant that she may be re-examined every six months and has until the age of 21 to be treated. Because the appellant's HLD score is below 22 and there were no autoqualifiers present and no medical necessity narrative, the appellant does not have a handicapping malocclusion and MassHealth will not pay for comprehensive orthodontic treatment at this time.

The record in the appeal was held open until January 13, 2025 for the appellant to submit a

medical necessity narrative. Dr. Moynihan was given until January 20, 2025 to review and respond to the appellant's submission. On January 10, 2025, the appellant's attorney requested an extension of the record open period until February 3, 2025. The request was granted and Dr. Moynihan was given until February 17, 2025 to review and respond. This hearing officer did not receive any correspondence from the appellant by the due date and followed up via email on February 10, 2025. The appellant's attorney stated that he had nothing further to submit.

## **Findings of Fact**

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

1. The appellant is a MassHealth member under the age of 21 (Testimony and Exhibit 4).
2. The appellant's provider requested prior authorization for comprehensive orthodontic treatment and submitted an Orthodontics Prior Authorization Form, an HLD Form, photographs, and x-rays on June 19, 2024 (Exhibit 5).
3. The provider calculated an HLD score of 20, did not find any autoqualifying conditions, and did not submit a medical necessity narrative (Exhibit 5).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 14 and no conditions warranting automatic approval of comprehensive orthodontic treatment (Exhibit 5).
5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more; or has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment; or can establish medical necessity through a medical necessity narrative and supporting documentation (Testimony).
6. On July 9, 2024, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 5).
7. On August 14, 2024, the appellant timely appealed the denial to the Board of Hearings (Exhibit 2).
8. The hearing was initially scheduled for October 3, 2024, but on September 26, 2024, the Board of Hearings received a rescheduling request from the appellant's recently retained attorney. The rescheduling request was granted and the hearing rescheduled for December 16, 2024. (Testimony and Exhibit 3).

9. At hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays and found an HLD score of 13. She also did not see any evidence of any autoqualifying conditions (Testimony).
10. The appellant does not have crowding greater than 3.5mm in either arch. In her upper, arch she has spacing. In her lower arch, she has at most 1.5mm of crowding, which is far from the 3.5mm needed to score anterior crowding in the HLD form. (Testimony).
11. The appellant's HLD score is below 22.
12. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; overjet greater than 9 mm; reverse overjet greater than 3.5 mm; crowding of 10mm or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); spacing of 10mm or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant; lateral open bite 2mm or more of 4 or more teeth per arch; anterior open bite 2mm or more of 4 or more teeth per arch).
13. The appellant submitted a letter from her pediatrician that did not meet the medical necessity narrative criteria (Testimony and Exhibit 7).
14. The record was held open for the appellant to submit a medical necessity narrative, but after an extension was granted, the appellant did not submit any additional documentation (Exhibit 9).
15. The hearing record closed on February 10, 2025 after this hearing officer confirmed with the appellant's attorney that he had nothing further to submit. (Exhibit 9).

## Analysis and Conclusions of Law

130 CMR 420.431(C)(3) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member younger than 21 years old and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping **based on clinical standards for medical necessity as described in Appendix D of the Dental**



## **Manual.**

(Emphasis added).

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. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of one of the following automatic qualifying conditions: cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; overjet greater than 9 mm; reverse overjet greater than 3.5 mm; crowding of 10mm or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); spacing of 10mm or more in either the maxillary or mandibular arch (excluding 3<sup>rd</sup> molars); anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant; lateral open bite 2mm or more of 4 or more teeth per arch; or anterior open bite 2mm or more of 4 or more teeth per arch.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;
- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion;
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient’s malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient’s malocclusion; or
- v. a condition in which the overall severity or impact of the patient’s malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider’s justification of medical necessity involves a **mental, emotional,**

**or behavioral condition... a speech or language pathology...** that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must

- i. clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g. general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- v. discuss any treatments for the patient's condition (other than the comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

(Appendix D; emphasis added).

The appellant's provider indicated she found an HLD score of 20 and no autoqualifiers. She did not submit a medical necessity narrative with the prior authorization request. After reviewing the provider's submission, MassHealth found an HLD score of 14 and no autoqualifiers. Upon review of the prior authorization documents at hearing, Dr. Moynihan found an HLD score of 13 and no autoqualifiers.

All the appellant's HLD scores, including that of the appellant's orthodontist, fall below the necessary 22 points. The appellant also does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. Based on the documentation submitted at the time of the prior authorization, MassHealth's determination was correct. The appellant was given additional time to submit a medical necessity narrative for review; however, by the close of the record open period, did not submit one.

While the appellant's testimony is credible and I appreciate the impact her malocclusion has on her life, it is not sufficient to establish medical necessity. Additionally, the letter from her pediatrician does not satisfy the criteria for the medical necessity narrative. There needs to be a medical necessity narrative (with supporting documentation where applicable) from a qualified, licensed professional who can speak to, among other requirements listed in Appendix D of the Dental Manual, the diagnosed mental, emotional, or behavioral condition and/or speech or language pathology, whether it is caused by the malocclusion, and whether comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate those

conditions. While the pediatrician states that the appellant has major depressive disorder, generalized anxiety disorder, school related social stressors and bullying, she does not indicate that those conditions are caused by the appellant's malocclusion or that those conditions would be ameliorated by orthodontic treatment.

As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines and has not established medical necessity, MassHealth was correct in determining that she does not have a handicapping malocclusion. Accordingly, this appeal is denied.<sup>3</sup>

## **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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Alexandra Shube  
Hearing Officer  
Board of Hearings

  
MassHealth Representative: DentaQuest 2, MA

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<sup>3</sup> This decision does not prevent the appellant, through her orthodontic provider, from submitting a new prior authorization with accompanying medical necessity narrative in the future. As stated by Dr. Moynihan, the appellant may be re-examined every six months and has until the age of 21 to be treated.