

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2500166
<b>Decision Date:</b>	4/23/2025	<b>Hearing Date:</b>	02/19/2025
<b>Hearing Officer:</b>	Emily Sabo	<b>Record Open to:</b>	03/19/2025

**Appearances for Appellant:**



**Appearance for MassHealth:**

Dr. David Cabeceiras, 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>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization; Orthodontic Services
<b>Decision Date:</b>	4/23/2025	<b>Hearing Date:</b>	02/19/2025
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras	<b>Appellant's Rep.:</b>	Pro se & Mom
<b>Hearing Location:</b>	Quincy Harbor South 2	<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 December 20, 2024, MassHealth denied the Appellant's request for prior authorization for comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 5). The Appellant filed this appeal in a timely manner on January 2, 2025 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the Appellant's request for coverage of comprehensive orthodontic treatment.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the Appellant does not meet the MassHealth requirements for coverage of comprehensive orthodontic treatment.

### Summary of Evidence

The Appellant is a minor and he and his mother both appeared at the hearing. The Appellant's mother verified the Appellant's identity. On November 21, 2024, the Appellant's orthodontist submitted a request for prior authorization for comprehensive orthodontic treatment on behalf of the Appellant. As part of this request, the Appellant's orthodontist completed an Orthodontics Prior Authorization form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) form, and submitted these, along with photographs and X-rays of the Appellant's mouth. Exhibit 5. The Appellant's orthodontist indicated that he would be submitting a medical necessity narrative. *Id.* at 12. The Appellant's orthodontist included a letter stating that the Appellant's "restorative care has been completed. The patient's level of cooperation and the patient's oral hygiene are acceptable." *Id.* at 9.

At the hearing, MassHealth was represented by an orthodontist consultant with DentaQuest, a contracted agent of MassHealth that makes dental prior authorization determinations. The MassHealth representative testified that MassHealth only covers the cost of comprehensive orthodontic treatment if there is a severe problem (a handicapping malocclusion). To determine whether there is a handicapping malocclusion, an HLD form is completed by both the orthodontic provider and MassHealth. The HLD form lists 13 auto qualifiers and 9 characteristics with corresponding numerical values. The MassHealth representative testified that for MassHealth to authorize payment for orthodontic treatment, MassHealth would need to find that an individual has an HLD score of at least 22 points or an auto qualifying condition.

The Appellant's orthodontist did not indicate that the Appellant had an auto qualifying condition and calculated an HLD score of 8, based on 3 points for overjet, 3 points for overbite, and 2 points for labio-lingual spread. *Id.* at 11. Prior to the hearing, DentaQuest calculated that the Appellant had an HLD score of 9 and no auto qualifying conditions. *Id.* at 7. At the hearing, the MassHealth representative examined the Appellant's teeth and testified that he calculated an HLD score of 9 points. The MassHealth representative testified that he found no auto qualifying conditions. The MassHealth representative testified that he would uphold the denial for treatment because there is not a handicapping malocclusion, and none of the providers found that the Appellant scored the requisite 22 or more HLD points. The MassHealth representative testified that the submitted information from the Appellant's dental provider did not meet the requirement demonstrating that comprehensive orthodontic treatment was medically necessary.

The Appellant's mother testified that the Appellant has a rare genetic disorder and that due to that, MassHealth paid for braces for the Appellant's siblings who have the same condition. The Appellant's mother testified that the Appellant has sleep apnea and that his doctor has said that the Appellant needs treatment.

The record was held open until March 5, 2025, for the Appellant to submit a narrative and supporting documentation for medical necessity, and until March 19, 2025, for MassHealth to review and respond. Exhibit 6. The Appellant's representative submitted a letter from [REDACTED]

stating

[REDACTED]

I have been following [Appellant] and his two equally affected siblings . . . for more than 10 years.

[REDACTED]

I strongly believe that braces to correct mal-aligned teeth will help mitigate his sleep apnea. Braces will also be important for his dental health, particularly by preventing malocclusion and by allowing improved chewing of solid foods as well as improved dental hygiene. This will allow the prevention of gum disease, dental abscesses and general tooth decay, for which he is vulnerable also because of short roots and enamel hypoplasia. Furthermore, well-aligned teeth will have [a] major impact on his self-esteem and acceptance by his peers in school and later during his professional life.

Exhibit 7 at 2.

The MassHealth representative responded that “the letter submitted along with the malocclusion do not meet the criteria needed to overturn the denial for [comprehensive] orthodontic treatment. The denial is upheld.” Exhibit 8 at 1.

## Findings of Fact

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

1. The Appellant's orthodontic provider submitted a request for comprehensive orthodontic treatment on behalf of the Appellant (Testimony; Exhibit 5).
2. The Appellant's orthodontic provider completed an Orthodontic Prior Authorization form and an HLD form and submitted these to DentaQuest, along with photographs and X-rays of the Appellant's mouth (Exhibit 5).
3. The Appellant's orthodontic provider did not indicate that the Appellant had any auto qualifying conditions and calculated an HLD score of 8 (Exhibit 5 at 11).
4. The Appellant's orthodontic provider indicated that treatment is medically necessary and that "restorative care has been completed. The patient's level of cooperation and the patient's oral hygiene are acceptable" (Exhibit 5 at 9, 12).
5. DentaQuest calculated an HLD score of 9 points and no auto qualifying conditions (Exhibit 5 at 7).
6. Based on his examination of the Appellant at hearing, the MassHealth representative calculated an HLD score of 9 points and no auto qualifying conditions (Testimony).
7. An HLD score of 22 is the minimum score indicative of a handicapping malocclusion (Testimony).
8. During the record open period, the Appellant's medical provider submitted a letter explaining the Appellant's medical condition and his assessment that braces will help (Exhibit 7).
9. The MassHealth representative stated that he would continue to deny the request for comprehensive orthodontic treatment (Exhibit 8).

## **Analysis and Conclusions of Law**

As a rule, MassHealth and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 420.410; 130 CMR 450.204. The MassHealth regulations at 130 CMR 420.410(A)(3) state:

The provider must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency. The MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the

MassHealth agency

- (a) the treatment was medically necessary;
- (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and
- (c) it would not be clinically appropriate to delay the provision of the service.

130 CMR 420.410(A)(3).

In addition to complying with the prior authorization requirements at 130 CMR 420.410 *et seq.*, covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 130 CMR 420.456. The MassHealth regulations at 130 CMR 420.431 provide service descriptions and limitations for orthodontic services. As relevant to comprehensive orthodontic treatment requests, the regulation provides:

130 CMR 420.431: Service Descriptions and Limitations: Orthodontic Services

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's [REDACTED] birthday.

(B) Definitions.

- (1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.
- (2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.
- (3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.
- (4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member younger than [REDACTED] 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches [REDACTED]. Comprehensive orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

130 CMR 420.431(A); (B); (C)(3).

130 CMR 450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) A service is medically necessary if

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(E) Any regulatory or contractual exclusion from payment of experimental or unproven services refers to any service for which there is insufficient authoritative evidence that such service is reasonably calculated to have the effect described in 130 CMR 450.204(A)(1).

130 CMR 450.204.

Appendix D of the Dental Manual contains the authorization form for comprehensive orthodontic treatment.<sup>1</sup> As indicated by the paper record, MassHealth testimony, and the relevant regulations, appendices and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

1. the member has an auto qualifying condition as described by MassHealth in the HLD

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<sup>1</sup> Appendix D of the Dental Manual is available at <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.



index;<sup>2</sup>

2. the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD index;<sup>3</sup> or
3. comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider.<sup>4</sup> Usually this involves a severe medical condition that can include atypical or underlying health concerns, which may be either dental or non-dental.

The instructions for the medical necessity narrative and supporting documentation states:

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 skeletal 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 a 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 diagnosed condition caused by the overall severity of the patient's malocclusion.

Providers may submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. Providers must submit this narrative in cases where the patient does not have an autoqualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. 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 nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the

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<sup>2</sup> Found on page D-5 of Appendix D of the Dental Manual.

<sup>3</sup> Found on page D-6 of Appendix D of the Dental Manual.

<sup>4</sup> Found on page D-3 of Appendix D of the Dental Manual.

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 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.

The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative.

Appendix D of the Dental Manual at D-3 and D-4.

None of the three reviewing providers, including the Appellant's own orthodontist, found that the Appellant had a score of 22 or more points that is needed for approval on the HLD scale. The scores found ranged between 8 to 9 points, significantly below the 22-point threshold. Exhibit 5. None of the three reviewing providers found that the Appellant had an auto qualifying condition. The area of dispute has to do with whether comprehensive orthodontic treatment is otherwise medically necessary for the Appellant. I have carefully reviewed the letters submitted by [REDACTED] and the Appellant's orthodontist. However, I find that the Appellant has not demonstrated that comprehensive orthodontic treatment is medically necessary. I believe that the Appellant has a [REDACTED] which makes this signaling protein inactive, but the record does not demonstrate that comprehensive orthodontia is reasonably calculated to address his health condition — particularly as the evidence indicates that the Appellant does not have a malocclusion. Exhibit 5 (see also photographs and X-rays at 14-16); 130 CMR 420.431; 130 CMR 450.204(A)(1). Additionally, the record evidence does not support that "there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting

the service, that is more conservative or less costly to the MassHealth agency,” and there was no evidence that less costly treatments were considered or attempted. 130 CMR 450.204(A)(2). Therefore, the Appellant has not established that MassHealth erred in denying the request.

This appeal is denied.<sup>5</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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Emily Sabo  
Hearing Officer  
Board of Hearings

MassHealth Representative: BeneCare 1, Attn: Jessica Lusignan

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<sup>5</sup> This denial does not preclude the Appellant or the Appellant’s orthodontist from submitting a new prior authorization request to MassHealth every six months upon re-examination, until the Appellant reaches the age of 18. This can include additional information regarding medical necessity.