

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2505126
Decision Date:	06/13/2025	Hearing Date:	05/14/2025
Hearing Officer:	Thomas Doyle	Record Open to:	N/A

Appearance for Appellant:
Lourdy Augustin, Mother

Appearance for MassHealth:
Dr. Harold Kaplan, DMD



*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

Appeal Decision:	Denied	Issue:	Prior Approval - Orthodontal Services
Decision Date:	06/13/2025	Hearing Date:	05/14/2025
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Lourdy Augustin
Hearing Location:	Quincy Harbor South 4	Aid Pending:	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 February 16, 2025, MassHealth denied appellant's prior authorization for orthodontic treatment. (Ex.1). Appellant filed this appeal in a timely manner on March 27, 2025. (130 CMR 610.015(B). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's request for approval of the prior authorization for orthodontic treatment.

Issue

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

Summary of Evidence

Appellant is a [REDACTED] MassHealth member who appeared at hearing with his mother in Quincy. MassHealth was represented by Dr. Harold Kaplan, a board-certified orthodontist and consultant from BeneCare, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members.

Dr. Kaplan testified that MassHealth does not cover orthodontics for every single child who is a MassHealth member with dental insurance. He stated MassHealth can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the appellant has imperfect teeth. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant's provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 24. (Ex. 4, p. 7). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 4 on the scale. (Testimony). Specifically, Dr. Kaplan testified that on the HLD scale, he awarded 0 points for Anterior Open Bite, after his in-person examination of appellant. He described an Anterior Open Bite as a situation when upper teeth and the lower teeth do not meet and there is a space between them. He stated in appellant's case, after examining appellant and reviewing x-rays and photographs, there is some crowding but there is no touching, or in other words, no open bite. (Testimony). Regarding the scoring of the Labio-Lingual Spread, Dr. Kaplan stated appellant's orthodontist found a score of 8 points. (Ex. 4, p. 7). He stated he determined a score of 4 points. (Testimony). Dr. Kaplan stated he believed appellant's orthodontist counted both lateral incisors but he testified you can only count the most severe lateral incisor. (Testimony; Ex. 4, p. 13).

Regardless of point total, it is also possible to qualify for orthodontic treatment if the appellant has a condition deemed an Autoqualifier. Here, appellant's provider did not indicate the presence of an Autoqualifier. (Ex. 4, p. 7). Dr. Kaplan did not provide any testimony that he observed an Autoqualifier after his in-person examination of appellant.

It is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the appellant. In order for the appellant's particular conditions to be evaluated to see if those particular conditions support a Medical Necessity determination, evidence, in the form of a Medical Necessity Narrative letter and supporting documentation, must be submitted by the appellant's requesting provider. Generally, this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental. Here, the appellant's orthodontic provider did not provide a Medical

Necessity Narrative, nor was any additional supporting documentation submitted. (Ex. 4, p. 8-9).

Appellant's mother asked Dr. Kaplan if he thought appellants' teeth were not aligned and Dr. Kaplan stated appellant's teeth may get more crowded in the future but MassHealth bases its decision on the current state of appellant's teeth.

Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 4).
2. Appellant's provider submitted an HLD score of 24 points. (Ex. 4, p. 7).
3. Dr. Kaplan came to a total score on the HLD of 4 points. (Testimony).
4. Neither appellant's provider nor Dr. Kaplan found an auto qualifier present. (Testimony; Ex. 4, pp. 7, 13).
5. Appellant's provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 8).
6. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time. (Testimony).

Analysis and Conclusions of Law

As a rule, the MassHealth agency 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. (130 CMR 450.204; 130 CMR 420.410). In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,¹ covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. (130 CMR 420.421 (A) through (C)).

¹ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

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. ...

(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 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**. ...

(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. As indicated by the paper record, the 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 Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; 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. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). On this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

A review of the different HLD scores is required to ascertain if appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. Here, the appellant's provider calculated a score of 24 points on the HLD scale. Dr. Kaplan only found an HLD score of 4. (Testimony). Dr. Kaplan testified that after he carefully looked at photos and x-rays of appellant's mouth and he had the

opportunity to examine appellant at the hearing, he found a score of 4. There are two main areas of contention. The first is Anterior Open Bite. Appellant's provider gave a score of 16 points. Dr. Kaplan scored 0 points. He described an Anterior Open Bite as a situation when upper teeth and the lower teeth do not meet, there is a space between them. He stated in appellant's case, after examining appellant and reviewing x-rays and photographs, there is some crowding but there is no touching, or in other words, no open bite. The second area of contention is the scoring of the Labio-Lingual Spread. Dr. Kaplan stated appellant's orthodontist found a score of 8 points. After his in-person examination of appellant, Dr. Kaplan determined a score of 4 points. Dr. Kaplan stated he believed appellant's orthodontist counted both lateral incisors, but he testified you can only count the most severe lateral incisor.

If the scoring done by appellant's provider is adjusted to reflect what Dr. Kaplan found, you would subtract the 16 points found on the Anterior Open Bite score and 4 points from the Labio-Lingual Spread score, for a total of 8 points on the HLD scale.

I credit the testimony of Dr. Kaplan. I find Dr. Kaplan's explanation of his process in reviewing photos, x-rays and his in-person examination of appellant to be very thorough. He testified he was careful in his review and is a board-certified orthodontist. (Testimony). Dr. Kaplan is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that the opinion of the orthodontist present at hearing to be persuasive and plausible, especially as he was subject to cross examination by appellant and his mother.

Appellant has not met his burden and the 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.

Thomas Doyle
Hearing Officer
Board of Hearings

MassHealth Representative: BeneCare 1, Attn: Jessica Lusignan