

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request # 756543

NOTICE OF DECISION
PARTY

██████████
Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, Connecticut Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) stating that it had denied a prior authorization request for approval of interceptive orthodontic treatment for ██████████, her minor child. The NOA states, “the documents your dentist has given CTDHP provided no evidence that the requested services met the “medically necessary/medical necessity” care conditions set by the Department.”

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, OLCRAH issued a notice rescheduling the administrative hearing at the Appellant’s request to ██████████ 2016.

██████████ 2016, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, the Appellant
Kate Nadeau, CTDHP Grievance & Appeals Representative

Dr. Gregory Johnson, CTDHP's Dental Consultant, by phone
Veronica King, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. The Appellant is [REDACTED] mother. (Hearing record)
2. [REDACTED] (D.O.B. [REDACTED]/02) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record and Exhibit 1: Prior Authorization Form)
3. CTDHP also known as BeneCare Dental Plans is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED], DMD, MS, is [REDACTED] treating orthodontist (the "treating orthodontist"). (Exhibit 1)
5. On [REDACTED] 2015, CTDHP received a prior authorization request from the treating orthodontist for interceptive orthodontic treatment for [REDACTED] indicating, "Please note patient has thumb habit causing open bite on tooth number nine and ten". Also sent were models and x-rays of [REDACTED] mouth. (Exhibit 2: Dr. Cos Malocclusion Assessment Record, [REDACTED]/15)
6. On [REDACTED] 2015, Dr. Robert Gange, DDS, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs. Dr. Gange found no evidence of severe irregular placement of [REDACTED] teeth within the dental arches and no irregular growth or development of jaw bones. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/15)
7. On [REDACTED] 2016, CTDHP issued a notice denying the request for interceptive orthodontic treatment for [REDACTED] and explained: "The documents your dentist has given to CTDHP provided no evidence that the requested service met the medically necessary/medical necessity care conditions set by the Department"; "Interceptive orthodontic treatments are covered only if they are medically necessary". (Exhibit 4: Notice of Action for Denied Services, [REDACTED]/16)

8. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, DDS, BeneCare's dental consultant, independently reviewed [REDACTED] models and panoramic radiographs. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. Dr. Drawbridge commented; "Patient does not qualify for D8220 (models should show evidence of severe protrusion/open bite". (Exhibit 7: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16)
9. Code D8220 is the code for the use of fixed appliance therapy in order to correct habits such as tongue thrusting and thumb sucking. Approval is based on the following: For correction of thumb sucking habits, models should show evidence of open bite or severe protrusion. (Dr. Johnson's Testimony)
10. On [REDACTED] 2016, CTDHP notified the Appellant that the request for approval of interceptive orthodontic treatment was denied because the second review of [REDACTED] dental records showed no presence of severe deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of [REDACTED] teeth. (Exhibit 8: Letter Regarding Orthodontic Treatment, [REDACTED]/16)
11. [REDACTED] has a thumb sucking habit. (Appellant's Testimony)
12. [REDACTED] has no pain or infection. (Appellant's Testimony)
13. [REDACTED] is not receiving treatment by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances or dysfunctions related to her malocclusion. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. Connecticut Agencies Regulations § 17-134d-35(a) provide that orthodontic services for services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations.
3. Connecticut General Statutes § 17b-259b provides (a) For purposes of the administration of the medical assistance programs by the Department of

- Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are: (1) Consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease; (3) not primarily for the convenience of the individual, the individual's health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition.
4. Connecticut General Statutes § 17b-259b(b) provides that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.
 5. Connecticut General Statutes Supplement § 17b-282(e) provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements. If a recipient's score on the Salzmann Handicapping Malocclusion Index is less than twenty-six points, the Department of Social Services shall consider additional substantive information when determining the need for orthodontic services, including (1) documentation of the presence of other severe deviations affecting the oral facial structures; and (2) the presence of severe mental, emotional or behavioral problems or disturbances, as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, that affects the individuals daily functioning.
 6. Connecticut Agencies Regulations § 17-134d-35(b)(3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for

orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.

7. Connecticut Agencies Regulations § 17-134d-35(f)(1) provide that prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and, (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment.
8. ██████ study models submitted by the treating orthodontist do not clearly support the presence of any deviations affecting the mouth or underlying structures; as required by state regulations for the authorization of comprehensive or interceptive orthodontia treatment.
9. ██████ has not been recommended by a licensed psychiatrist or psychologist, that she receive orthodontic treatment to significantly ameliorate mental, emotional, and or behavior problems, disturbances or dysfunctions.
10. CTDHP correctly denied prior authorization for interceptive orthodontic treatment because ██████ does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

DECISION

The Appellant's appeal is **DENIED.**

Veronica King
Veronica King
Hearing Officer

Cc: Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita LaRosa, CTDHP, P.O. Box 486 Farmington, CT 06032

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.