

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

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

Client ID # ██████████  
Request # 769659

NOTICE OF DECISION  
PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2016, BeneCare Dental Health Plans (“BeneCare”), administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia for the Appellant’s child, ██████████. The NOA informed the Appellant that orthodontia for ██████████ was not medically necessary because the severity of ██████████ malocclusion did not meet requirements set in state statute and regulations for medical necessity.

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, in accordance with sections 17b-60, 17b-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:

██████████, Appellant  
██████████ Appellant’s child  
Kate Nadeau, CTDHP’s Representative  
Dr. Julius Gold, CTDHP Dental Consultant, via telephone conference call  
Swati Sehgal, Hearing Officer

The record remained open for the submission of additional evidence. On [REDACTED] 2016, the record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services was in accordance with state law.

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] mother. [REDACTED] date of birth is [REDACTED] 2005.(Hearing Record and Exhibit 1: Orthodontia services claim form)
2. [REDACTED] is a participant in the Medicaid program, as administered by the Department of Social Services through CTDHP. (Exhibit 1: Orthodontia Services Claim Form)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Dr. Lance R. Kiss is [REDACTED] treating orthodontist (the "treating orthodontist"). (Hearing record, Exhibit 1: Orthodontia Services Claim Form)
5. On [REDACTED] 2016, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED] (Exhibit 1).
6. On [REDACTED] 2016, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 36 points, x-rays and models of [REDACTED] mouth. Dr. Kiss commentated "Class II division I, 100% overbite 6+mm overjet excessively proclined upper anterior teeth" (Hearing Record and Exhibit 2: Malocclusion Assessment Record signed by Dr. Kiss)
7. On [REDACTED] 2016, Dr. Benson Monastersky, CTDHP's orthodontic dental consultant, independently reviewed all the information submitted by treating orthodontist and arrived at a score of 25 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky did not find evidence of severe deviations affecting the mouth and underlying structures. Dr. Monastersky indicated that "overjet is not 9mm minimum to automatically qualify." (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)

8. On [REDACTED] 2016, CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of [REDACTED] mouth was less than the 26 points needed for coverage and that there is no substantial information about the presence of severe deviations affecting the mouth and underlying structures. (Exhibit 4: Notice of Action for Denied Services or Goods)
9. On [REDACTED] 2016, the Appellant requested an administrative hearing on the denial of braces for [REDACTED] (Exhibit 5: Hearing request)
10. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, an orthodontic consultant for CTDHP, reviewed [REDACTED] record and arrived at a score of 24 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
11. On [REDACTED] 2016, CTDHP notified the Appellant that [REDACTED] score of 24 points did not meet the criteria for orthodontic treatment. (Exhibit 8: Letter Regarding Orthodontic Services)
12. On [REDACTED] 2016, CTDHP was advised to conduct third review.
13. On [REDACTED] 2016, Dr. Vincent Fazzino, an orthodontic consultant for CTDHP, reviewed [REDACTED] record and arrived at a score of 24 points on a completed preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the mouth and underlying structure.

### **CONCLUSIONS OF LAW**

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
2. State regulations 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. Conn. Gen. Stat. § 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. Public Act 15-5 (June Sp. Session, Section 390) provides, in relevant part, as follows: “ 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.”
  5. Regulation provides in part that the Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child’s mental, emotional, and/or behavior problems, and the orthodontic treatment is necessary, and, in this case, will significantly ameliorate the problems. [Conn. Agencies Regs. §17- 134d-35(e)(2)]
  6. State regulations provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the

total point score of the preliminary assessment. [Conn. Agencies Regs. §17-134d-35(f)]

6. CTDHP correctly found that [REDACTED] malocclusion did not meet the requirement of a 26 point score on the preliminary assessment.
7. CTDHP correctly determined that there is no presence of severe deviations affecting [REDACTED] mouth and underlying structures.
8. CTDHP correctly determined that the [REDACTED] is not being treated by a licensed psychiatrist or psychologist who recommends orthodontic treatment to significantly ameliorate her child's mental, emotional, and or behavior problems, disturbances or dysfunctions. CTDHP was correct to deny prior authorization because [REDACTED] does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

### **DISCUSSION**

Three Benecare consultants in blind reviews independently assessed [REDACTED] models and scored the malocclusion to equal 25, 24 points and 24 points respectively. It is reasonable to conclude that the models and x-rays do not support the severity of malocclusions and dentofacial deformity. There is some consensus across the assessments that [REDACTED] has the presence of crowding and overbite with her teeth. However, [REDACTED] malocclusion does not meet the criteria for severity as established in state regulations.

### **DECISION**

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

*Swati Sehgal*  
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Swati Sehgal  
Hearing Officer

Pc: Diane D'Ambrosio, Connecticut Dental Health Partnership  
Rita LaRosa, Connecticut Dental Health Partnership

### **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 060105-3725.

### **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 06105-3725. 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.

