

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

██████████ 2016
Signature confirmation

Client: ██████████
Request: 769890

NOTICE OF DECISION

PARTY

██████████
██
██

PROCEDURAL BACKGROUND

On ██████████ 2016, Connecticut Dental Health Partnership (“CTDHP”) issued ██████████ ██████████ (the “Appellant”) a *Notice of Action* denying a prior authorization request for approval of Medicaid payment for a permanent crown, as the Appellant’s tooth could be fixed with a silver or white filling.

On ██████████ 2016, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to contest the CTDHP’s action.

On ██████████ 2016, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2016. CTDHP and the Appellant agreed to a postponement of the administrative hearing, to allow CTDHP additional time to prepare.

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.

These individuals participated in the proceeding:

██████████, Appellant
██████████, Appellant’s witness
Kate Nadeau, CTDHP’s representative
Diane D’Ambrosio, CTDHP’s representative
Greg Johnson, D.M.D., CTDHP’s witness (by telephone)
Eva Tar, Hearing Officer

The administrative hearing record closed ██████████ 2016.

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP's denial of prior authorization for approval of Medicaid payment for a porcelain crown for the Appellant's tooth #32 was in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED] 1940. (CTDHP's Exhibit 1: Yale-New Haven Hospital's Prior Authorization Claim Form, [REDACTED]/16)
2. The Appellant is a Medicaid recipient. (CTDHP's Exhibit 2: *Notice of Action*, [REDACTED]/16)
3. CTDHP is the Department of Social Services' contractor for reviewing dental providers' request for prior authorization of dental treatment. (CTDHP's representative's testimony)
4. Yale-New Haven Hospital-Hamden Dental Center (the "dental provider") provides the Appellant with dental services. (CTDHP's Exhibit 1)(CTDHP's Exhibit 6: Letter, [REDACTED]/16)
5. The Appellant's dental provider has referred the Appellant more than once for an evaluation for a dental prosthesis (dentures). (CTDHP's Exhibit 13)
6. The Appellant does not want dentures. (Appellant's testimony)
7. On [REDACTED] 2015, the Appellant's dental provider completed a sedative filling of the Appellant's tooth #32, as he had buccal caries under the margin of an existing crown. (CTDHP's Exhibit 13: Email, [REDACTED]/16)
8. On [REDACTED] 2016, as part of a six-month follow-up visit with the Appellant's dental provider, the Appellant complained of sensitivity in tooth #32. (CTDHP's Exhibit 13)
9. On [REDACTED] 2016, the Appellant's tooth #32 showed no evidence of fracture/pain on bite or release. (CTDHP's Exhibit 13)
10. On [REDACTED] 2016, the Appellant's Fuji restoration on the buccal margin of tooth #32 was failing. (CTDHP's Exhibit 13)
11. On [REDACTED] 2016, the Appellant's dental provider informed the Appellant the following about tooth #32: 1) it may need a root canal; 2) it may be unrestorable; 3) "doing nothing is an option," with the Appellant to return if he had spontaneous pain, swelling, or fever; and 4) that Medicaid coverage was unlikely for this tooth as it was a standalone third molar with no adjacent tooth. (CTDHP's Exhibit 13)
12. On [REDACTED] 2016, the Appellant's dental provider took an X-ray of the Appellant's tooth #32. (CTDHP's Exhibit 13)

13. On [REDACTED] 2016, CTDHP received a prior authorization request from the Appellant's dental provider for approval of Medicaid coverage for a porcelain crown on tooth #32. (CTDHP's Exhibit 1)
14. As part of the [REDACTED] 2016 prior authorization request, the Appellant's dental provider submitted the [REDACTED] 2016 X-ray of the Appellant's tooth #32. (CTDHP's Exhibit 1)(CTDHP's Exhibit 13)
15. The Appellant is missing the following teeth: #31, #30, #14, #15, #16, #19, #18, and #17. (CTDHP's Exhibit 1)
16. The Appellant has the following "grinding" teeth in occlusion: tooth #4/tooth #29; tooth #5/tooth #28; and tooth #13/tooth #20. (CTDHP's Exhibit 1)(CTDHP's witness's testimony)
17. Based on the location of tooth #32 and the number of teeth that are in occlusion, the Appellant's nutritional homeostasis is secure; he is not at risk of aspiration. (CTDHP's witness's testimony)(CTDHP's Exhibit 1)
18. The Appellant's tooth #32 is a third molar, or "wisdom tooth." (CTDHP's witness's testimony)
19. A third molar normally is not salvaged. (CTDHP's Exhibit 14: Email, [REDACTED] 16)(CTDHP's witness's testimony)
20. The Appellant already has a crown on tooth #32. (CTDHP's Exhibit 1)
21. The Appellant's crown on tooth #32 is not loose. (Appellant's testimony)
22. Tooth #32 does not appear infected. (CTDHP's witness's testimony)
23. The standard of care is met by judiciously removing the decay on tooth #32—without removing the existing crown—then by treating the area with a fluoride material and a filling; this method is a typical "drill and fill" procedure. (CTDHP's witness's testimony)
24. A composite resin material might be used to lute the existing crown and fill the void where the caries lesion was, or "re-using" the existing crown. (CTDHP's Exhibit 14)
25. On [REDACTED] 2016, CTDHP issued a *Notice of Action*, denying the dental provider's request for prior authorization for a permanent crown for the reason that it was not medically necessary; crowns or "caps" are not covered when there is enough of the tooth left to fix the tooth using a silver or white filling. (CTDHP's Exhibit 2)
26. The [REDACTED] 2016 *Notice of Action* stated that the Department of Social Services will pay for a crown of the following materials and only when the breakdown of the tooth structure is excessive: acrylic and porcelain. (CTDHP's Exhibit 2)

27. On █████ 2016, CTDHP notified the Appellant in writing that crowns or “caps” were replaced only when they have broken and also, if there is decay around the tooth portion of the crown or cap. (CTDHP’s Exhibit 5: Determination Letter, █████/16)
28. The breakdown of the Appellant’s tooth structure on tooth #32 is not excessive.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (“Conn. Gen. Stats.”) provides in part that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
2. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.
3. Not later than July 1, 2004, and prior to the implementation of a state-wide dental plan that provides for the administration of the dental services portion of the department’s medical assistance, the Commissioner of Social Services shall amend the federal waiver approved pursuant to Section 1915(b) of the Social Security Act. Such waiver amendment shall be submitted to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies in accordance with the provisions of section 17b-8. Conn. Gen. Stat. § 17b-282b.
4. Sections 17b-262-862 to 17b-262-866, inclusive, of the Regulations of Connecticut State Agencies set forth limitations on the extent of non-emergency dental services provided to adults twenty-one years of age and older who receive services under the Connecticut Medicaid program. Such limitations include coverage limits, prior authorization requirements and services that are not covered under Medicaid. These regulations supplement but do not supplant Department Medical Services Policies for dental services, including but not limited to, provider participation, eligibility, coverage limitations, billing procedures and payment, to the extent that such policies have the force of law pursuant to section 17b-10 of the Connecticut General Statutes. Conn. Agencies Regs. § 17b-262-862.
5. The Appellant is subject to the limitations for non-emergency dental services for individuals in excess of 21 years of age who are Medicaid recipients.
6. The Commissioner of Social Services shall modify the extent of nonemergency adult dental services provided under the Medicaid program. Such modifications shall include, but are not limited to, providing one periodic dental exam, one dental cleaning and one set of bitewing x-rays each year for a healthy adult. For purposes of this section, “healthy adult” means a person twenty-one years of age or older for whom there is no evidence indicating that dental disease is an aggravating factor for the person’s overall health condition. Conn. Gen. Stat. § 17b-282d (a).
7. All nonemergency dental services provided under the Department of Social Services’ dental programs, as described in section 17b-282b, shall be subject to prior

authorization. Nonemergency services that are exempt from the prior authorization process shall include diagnostic, prevention, basic restoration procedures and nonsurgical extractions that are consistent with standard and reasonable dental practices. Dental benefit limitations shall apply to each client regardless of the number of providers serving the client. The commissioner may recoup payments for services that are determined not to be for an emergency condition or otherwise in excess of what is medically necessary. The commissioner shall periodically, but not less than quarterly, review payments for emergency dental services and basic restoration procedures for appropriateness of payment. For the purposes of this section, "emergency condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate dental attention to result in placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to body functions or cause serious dysfunction of any body organ or part. Conn. Gen. Stat. § 17b-282c (a).

8. Treatment of the Appellant's tooth #32 is subject to the provisions set forth in statutes and regulations for nonemergency dental services.
9. The limitations on coverage of certain non-emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all adults twenty-one years of age and older and are subject to the prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies. Conn. Agencies Regs. § 17b-262-864.
10. Coverage of non-emergency dental services provided to healthy adults shall be limited as follows: (1) One comprehensive oral examination per client per lifetime. If a client changes dental providers, the new provider may request approval to conduct an additional comprehensive oral examination through the prior authorization process described in section 17b-262-866 of the Regulations of Connecticut State Agencies; (2) One periodic oral examination per client per year; (3) Four intraoral periapical x-rays per year; (4) One set of bitewing x-rays per year; and (5) One prophylaxis procedure per year. Conn. Agencies Regs. § 17b-262-864 (a).
11. Coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows: (1) One topical fluoride treatment for clients who have xerostomia or have undergone head or neck radiation or chemotherapy. (2) Prosthodontics: (A) Coverage of complete and removable partial dentures for functional purposes when there are fewer than eight posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies. (B) Coverage of removable partial dentures when there are more than eight posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies; (C) One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis is acceptable and that he or she understands the department's replacement

policy as described in subsection (d) of this section; and (D) Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse or negligence. (3) Coverage of periodontics is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies; (4) Coverage of implants and unilateral removable appliances is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies; and (5) Coverage of vestibuloplasty is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies. Conn. Agencies Regs. § 17b-262-864 (b).

12. Medicaid does not cover the following dental services for adults twenty-one years of age and older: (1) fixed bridges; (2) cosmetic dentistry; (3) orthodontia; and (4) resin-based composite restorations to the molar teeth (teeth numbers 1, 2, 3, 14, 15, 16, 17, 18, 19, 30, 31 and 32). Conn. Agencies. Regs. §17b-262-865.
13. Prior authorization, in a form and in a manner specified by the department, shall be required for certain dental services. In order for a prior authorization request for coverage to be considered by the department, the dental provider requesting authorization and payment shall complete and submit all necessary forms and information as specified by the department. Depending on the service requested, this information may include, but is not limited to, a treatment plan, narrative description of the client's medical condition and radiographs. Authorization does not guarantee payment unless all other requirements for payment are met. Conn. Agencies Regs. § 17b-262-866 (a).
14. CTDHP correctly required the Appellant's dental provider to follow the prior authorization procedures for a porcelain crown for tooth #32.
15. 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. Conn. Gen. Stat. § 17b-259b (a).

16. Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. Conn. Gen. Stat. § 17b-259b (b).
17. The department considers a number of factors in determining whether coverage of a particular procedure or service shall be subject to prior authorization. These factors include, but are not limited to, the relative likelihood that the procedure may be subject to unnecessary or inappropriate utilization, the availability of alternative forms of treatment and the cost of the procedure or service. Conn. Agencies Regs. § 17b-262-866 (c).
18. Upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. Conn. Gen. Stat. § 17b-259b (c).
19. CTDHP acted within the scope of its authority as the Department of Social Services' dental contractor when it reviewed the Appellant's dental provider's request for prior authorization for the purpose of determining whether the procedure may be subject to unnecessary or inappropriate utilization, the availability of alternative forms of treatment, and the cost of the procedure or service.
20. CTDHP correctly determined that a porcelain crown for the Appellant's tooth #32 was not medically necessary.
21. CTDHP correctly issued the Appellant a *Notice of Action* denying the Appellant's dental provider's request for Medicaid coverage for a porcelain crown for tooth #32.
22. CTDHP's denial of prior authorization for approval of Medicaid payment for a porcelain crown for the Appellant's tooth #32 was in accordance with state statute and regulations.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Pc: Diane D'Ambrosio, CTDHP
Rita LaRosa, CTDHP

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.