

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

██████████ 2017
SIGNATURE CONFIRMATION

Client ID# ██████████
Request # 824226

NOTICE OF DECISION

PARTY

Re: ██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, CT Dental Health Partnership/BeneCare Dental Plans (“BeneCare”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ (the “child”), a Notice of Action (“NOA”) denying a request for prior authorization for interceptive orthodontic treatment indicating that the proposed treatment was not medically necessary.

On ██████████ 2017, ██████████ (the “Appellant”) requested an administrative hearing to contest the Department’s denial of the prior authorization request for orthodontia.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████ Appellant
██████████ Witness and the child’s father
Beatriz Ruiz, Interpreter
Karina Reininger, BeneCare Representative

Dr. Vincent Fazzino, Dental Consultant for the Department via telephone
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether BeneCare's denial of a prior authorization request for approval of Medicaid coverage for [REDACTED] orthodontia as not medically necessary was correct and in accordance with state statutes and regulations.

FINDINGS OF FACT

1. The Appellant is [REDACTED] mother. [REDACTED] is 8 years old (DOB [REDACTED]/09). (Exhibit 1: Prior Authorization Claim Form, Hearing Record)
2. The Connecticut Dental Health Partnership, ("CTDHP") also known as BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
3. [REDACTED], Pc (the "treating orthodontist") is [REDACTED] treating orthodontist. (Exhibit 1, Hearing Summary)
4. On [REDACTED] 2017, the treating orthodontist requested prior authorization to complete interceptive orthodontic services for [REDACTED] (Exhibit 1)
5. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned [REDACTED] a score of twelve (12) points. Also included were models and x-rays of his teeth. The treating orthodontist noted, "tooth number ten impacted, anterior cross bite numbers eight and nine. Patient needs Phase One treatment-limited upper braces, gingival recession-numbers twenty four and twenty five". (Exhibit 2: Malocclusion Severity Assessment, Hearing Summary)
6. On [REDACTED] 2017, Dr. Benson Monastersky, DMD, an Orthodontic Consultant for BeneCare reviewed the dental records and evidence provided by [REDACTED] treating orthodontist and determined that interceptive orthodontic treatment was not medically necessary. Dr. Monastersky noted, "Does not meet Phase One treatment guidelines. Patient is only 7 with a developing dentition, #10 may erupt on its own". (Exhibit 3: Dr. Monastersky's Preliminary Handicapping Malocclusion Assessment Record)
7. On [REDACTED] 2017, Benecare denied the prior authorization request for interceptive orthodontic services because documents submitted by [REDACTED] treating orthodontist provided no evidence that interceptive orthodontic treatment is medically necessary (Exhibit 4: Notice of Action, [REDACTED]/17).
8. On [REDACTED] 2017, the Department received the Appellant's request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing)

9. On [REDACTED] 2017, pursuant to the Appellant's appeal filed on [REDACTED] 2017, Dr. Geoffrey Drawbridge, DDS, a Dental Consultant for BeneCare conducted an appeal review of [REDACTED] dental records. He assigned his malocclusion a score of ten (10). He did not find evidence of severe deviations affecting the mouth and underlying structures. He found no evidence presented regarding the presence of emotional issues directly related to [REDACTED] dental situation and determined that interceptive orthodontic treatment was not medically necessary. (Exhibit 6: Dr. Drawbridge's Preliminary Handicapping Malocclusion Assessment Record, Hearing Summary)
10. On [REDACTED] 2017, BeneCare notified the Appellant that the request for interceptive orthodontic treatment was denied because no evidence was found of any deviations affecting [REDACTED] mouth or underlying structures. There was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of [REDACTED] teeth. (Exhibit 7: Determination letter, [REDACTED]/17)
11. [REDACTED] is not undergoing psychiatric or psychological treatment related to the condition of his mouth. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. 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. Connecticut General Statutes § 17b-259b(a).
3. 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)]

4. State statute 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. [Conn. Gen. Stat. § 17b-259b]
5. State statutes provide 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 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)]
6. 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.
7. State regulations 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. [Conn. Agencies Regs. § 17-134d-35(b)(3)]

8. State regulations 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. [Conn. Agencies Regs. §17-134d-35(f)(1)]
9. State statute requires 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. Stats. § 17b-259b(c)]
10. The models and x-rays submitted by the treating orthodontist do not clearly support the presence of deviations affecting the mouth and the underlying structures as per state regulations for the authorization of orthodontic treatment.
11. Benecare correctly determined that [REDACTED] malocclusion did not meet the criteria for severity, or 26 points as established in state regulations and that there was no presence of severe deviations affecting the mouth and underlying structures.
12. Benecare correctly determined that [REDACTED] does not have any mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to the condition of his teeth.
13. Benecare was correct to find that [REDACTED] malocclusion did not meet the criteria for medically necessary as established in state regulations.
14. Benecare was correct to deny prior authorization because [REDACTED] does not meet the medical necessity criteria for interceptive orthodontic services in accordance with state statutes and regulations.
15. Benecare correctly issued a notice of action denying the Appellant's request for interceptive orthodontic treatment for [REDACTED]

DECISION

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



Carla Hardy
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 06105-3725.

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.