

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 # 832218

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 “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 ██████████ 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 (the “OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

The Appellant requested the hearing to be rescheduled. On ██████████ 2017, the OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2017.

On [REDACTED] 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:

[REDACTED], Appellant  
Magdalena Carter, BeneCare Representative  
Dr. Julius Gold, Dental Consultant for the Department via telephone  
Swati Sehgal, Hearing Officer

The record was left open for the submission of additional evidence. On [REDACTED] 2017, the BeneCare requested to extend the record, request was approved and record was extended. Record closed on [REDACTED] 2017.

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare'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 (Hearing Record).
2. [REDACTED] is 10 years old (D.O.B. [REDACTED]/2007) (Exhibit 1: Prior Authorization Claim Form).
3. 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).
4. Dr. [REDACTED] (the "treating orthodontist") is [REDACTED] treating orthodontist (Exhibit 1).
5. On [REDACTED] 2017, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED] (Exhibit 1, Hearing Summary).
6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned [REDACTED] a score of twenty-six (26) points. Also included were models and x-rays of [REDACTED] teeth. The treating orthodontist indicated that [REDACTED] had anterior cross bite with impacted canines (Exhibit 2: Dr. [REDACTED] Preliminary Handicapping Malocclusion Assessment Record, Hearing Summary).
7. On [REDACTED] 2017, Dr. Geoffrey Drawbridge, Orthodontic Consultant for BeneCare reviewed the dental records and evidence provided by [REDACTED] treating orthodontist and assigned him a score of twenty-one (21) points on the Malocclusion Severity Assessment, and determined that her condition did not meet the requirements for being determined medically necessary. The dental consultant commented, "Numbers six and

eleven erupting facially due to crowding. Cannot be scored as impacted". (Exhibit 3: Dr. Drawbridge's Preliminary Handicapping Malocclusion Assessment Record).

8. On [REDACTED] 2017, BeneCare sent an NOA to the Appellant advising her that the prior authorization request received from [REDACTED] provider for braces (orthodontics) was denied as not medically necessary. (Exhibit 4: NOA, [REDACTED]/2017).
9. On [REDACTED] 2017, the Department received the Appellant's request for an appeal/hearing (Exhibit 5: Request for appeal and administrative hearing).
10. On [REDACTED] 2017, pursuant to the Appellant's appeal filed on [REDACTED] 2017, Dr. Vincent Fazzino, a Dental Consultant for BeneCare conducted an appeal review of [REDACTED] dental records. He assigned [REDACTED] malocclusion a score of twenty-one (21) and commented "Tooth number six and eleven are erupting on the labial side. Numbers five, six and eleven are not impacted additional eruption should occur" (Exhibit 6: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record).
11. On [REDACTED] 2017, BeneCare notified the Appellant that [REDACTED] score of twenty one points did not meet the criteria for orthodontic treatment. (Exhibit 7: Determination letter, [REDACTED]/2017).
12. On [REDACTED] 2017, the Appellant provided additional information, which was submitted for third review. (Exhibit 9: Email from Benecare, Exhibit A: letter from [REDACTED] dentist, photographs and exrays of [REDACTED] teeth)
13. On [REDACTED] 2017, Dr. Robert Gange, DDS, dental consultant, reviewed the additional evidence provided by the Appellant and recommended that orthodontic treatment be approved (Exhibit 10: Benecare approval letter, [REDACTED]/17).

### **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. 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 indicate 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. 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. Benecare was correct to approve prior authorization because ██████ meets the medical necessity criteria for orthodontic treatment in accordance with state statutes and regulations.
7. The Appellant's hearing issue has been resolved; therefore, there is no issue on which to rule. The service which the Appellant had originally requested has been approved; there is no practical relief that can be afforded through an administrative hearing

**DECISION**

The Appellant's appeal is **Dismissed as Moot**

*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 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.