

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

██████████, 2018
Signature Confirmation

CLIENT No # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2018, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment for ██████████, her minor child, indicating that severity of child’s malocclusion did not meet the requirements in state law to approve the proposed treatment and that orthodontia did not meet the medical necessity requirement.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the decision to deny prior authorization of orthodontia.

On ██████████ ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████, 2018, CTDHP and the Appellant requested a re-schedule which was granted.

On ██████████ 2018, OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, 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:

mouth. During the function of eating or opening of one's mouth, there is a deviation that occurs toward the left side.

The Impacted upper three's refers to the upper cuspids. An impacted tooth means the tooth is stuck in the gums and will not move. (Dr. Vincent Fazzino's testimony)

7. Approval for interceptive orthodontic treatment through the Husky program is based on medical necessity rather than a standard Malocclusion Severity Assessment score of 26 points or greater. Any one of 7 criteria's must be met in order to meet state approval. (Dr. Vincent Fazzino's testimony)
8. The seven (7) criteria's for approval of interceptive treatment mentioned in the Malocclusion Assessment Record are Deep impinging overbite, Functional deviation, Class III Malocclusion, Gingival Recession, Severe overjet, Open bite, Anterior impacted tooth present. (Exhibits 2, 3 and 6- Preliminary Handicapping Malocclusion Assessment Record)
9. On [REDACTED] 2018, Dr. Benson Monastersky, (CTDHP dental consultant) independently evaluated the x-rays and models of [REDACTED] teeth and completed a Malocclusion assessment record and scored a 12. He indicated that [REDACTED] did not have a presence of severe deviations affecting her mouth and underlying structures, nor emotional distress and answered "NO" to all of the 7 criteria needed for approval of interceptive treatment. He commented that "Cuspid's appear to be ready to erupt toward the buccal. Deviation is under three millimeters so it does not qualify for automatic approval." He determined that interceptive orthodontic treatment was not medically necessary, therefore did not approve the prior authorization. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record)
10. The description of Buccal meaning the front side of the tooth inside of the mouth. (Dr. Vincent Fazzino's testimony)
11. On [REDACTED] 2018, CTDHP/ BeneCare issued a Notice of Action to the Appellant denying interceptive orthodontic treatment because the treating orthodontist did not provide evidence that the requested service was medically necessary. (Exhibit #4A, Notice of Action)
12. On [REDACTED] 2018, the Appellant requested an administrative hearing. (Exhibit 5, Hearing request)
13. On [REDACTED] 2018, CTDHP dental consultant, Dr. Robert Gange conducted an appeal review using the models and x-rays of [REDACTED] teeth. The Malocclusion Severity Assessment Record indicated a score of

- 15; in addition there was no evidence of irregular growth or development of the jaw bones. Dr. Gange answered “NO” to all 7 criteria needed for approval of interceptive orthodontic treatment. He commented: “Cuspids buccal- erupting vertical path- resubmit once dentition matures”. Dr. Gange’s decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut’s requirement of being medically necessary. (Exhibit #7, Preliminary Handicapping Malocclusion Assessment record)
14. On [REDACTED] 2018, CTDHP/ Benecare issued a determination notice advising the Appellant that the appeal review was conducted and based on [REDACTED] models and x-rays, the Malocclusion severity assessment from the treating orthodontist and the two dental consultants for CTDHP have recommended that CT Department of Social Services (“CTDSS”) uphold the previously denied request for braces. (Exhibit #8A, Determination Letter)
15. In this case based on the information provided, CTDHP did not feel the teeth were impacted based on the buccal position of the teeth. The teeth in buccal position, although not perfectly, will usually erupt. (Dr. Vincent Fazzino’s testimony)
16. The Appellant confirmed that [REDACTED] teeth have erupted prior to this hearing. (Appellant testimony)
17. [REDACTED] is not receiving treatment by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances, or dysfunctions related to her dental situation. (Appellant’s testimony)
18. The issuance of this decision is timely under Connecticut General Statute’s 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2018. Therefore, this decision was due not later than [REDACTED], 2018. However, the hearing, which was originally scheduled for [REDACTED], 2018, was rescheduled at the request of the Appellant, which caused a 20-day delay. Because this 20-day delay resulted from the Appellant’s request, this decision is due not later than [REDACTED], 2019

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 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)]
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. 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)]
 7. 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)]
 8. 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)]
 9. 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 interceptive orthodontic treatment.
 10. CTDHP/ Benecare correctly determined that ██████████ 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.
 11. CTDHP/ Benecare correctly determined that ██████████ does not have any mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to the condition of her teeth.

12. CTDHP/ Benecare was correct to find that [REDACTED] malocclusion did not meet the criteria for medically necessary as established in state regulations.
13. CTDHP/ Benecare were 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.
14. CTDHP/ Benecare correctly issued a notice of action denying the Appellant's request for interceptive orthodontic treatment.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod

Almelinda McLeod
Hearing Officer

CC: Diane D'Ambrosio, CTDHP PO Box 486 Farmington, Ct 06032
Rita LaRosa, CTDHP PO 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 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.