

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

██████████ 2019
Signature Confirmation

████████████████████
Request # 131685

NOTICE OF DISMISSAL

PARTY

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On ██████████, 2018, 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 orthodontic treatment indicating it was not medically necessary.

On ██████████ 2018, ██████████ (the “Appellant”), requested an administrative hearing to contest the Department’s denial of the prior authorization request for orthodontia.

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

On ██████████ 2018, 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 participated in the hearing:

████████████████████, Appellant
Magdalena Carter, BeneCare Representative

Dr. Greg Johnson, Dental Consultant for BeneCare via telephone
Carla Hardy, Hearing Officer

The hearing record remained open in order for the Appellant to submit additional evidence. The record closed on [REDACTED] 2019.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny orthodontic treatment was in accordance with state and federal law.

FINDINGS OF FACT

1. The Appellant is the child's guardian. (Hearing Record)
2. The child is [REDACTED] years old (DOB [REDACTED]). (Exhibit 1: Prior Authorization Claim Form)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On [REDACTED], 2018, [REDACTED] (the "treating orthodontist") requested prior authorization to complete orthodontic services for the child. (Exhibit 1, Hearing Summary)
5. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of twenty-four (24) points. Also included were models and x-rays of the child's teeth. The treating orthodontist commented, "Patient does not have enough points but patient has 100% deep overbite". (Exhibit 2: [REDACTED] Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
6. On [REDACTED], 2018, Dr. Vincent Fazzino, DMD an Orthodontic Consultant for BeneCare reviewed the dental records and evidence provided by the child's treating orthodontist and assigned him a score of twenty (20) points on the Malocclusion Severity Assessment and determined that his condition did not meet the requirements for being determined medically necessary. (Exhibit 3: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record)
7. On [REDACTED], 2018, BeneCare sent an NOA to the child advising him that the prior authorization request received from his provider for braces (orthodontics) was denied as not medically necessary, because [(1)] his score of twenty (20) points on the Preliminary Handicapping Malocclusion Assessment record is less than the required twenty-six (26) points; 2) There is no additional substantial

information about the presence of severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures and 3) There is no evidence that a diagnostic evaluation has been completed by a licensed child psychologist or a licensed child psychiatrist indicating that her dental condition is related to the presence of severe mental, emotional, and or behavior problems, disturbances or dysfunctions as defined in the current edition of the Diagnostic Statistical Manual and orthodontic treatment will significantly improve such problems, disturbances or dysfunctions.” (Exhibit 4: NOA, [REDACTED]/18)

8. On [REDACTED], 2018, the Department received the Appellant’s request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing, Hearing Summary)
9. On [REDACTED], 2018, pursuant to the Appellant’s appeal filed on [REDACTED] [REDACTED] 2018, Dr. Geoffrey Drawbridge, DDS, a Dental Consultant for BeneCare conducted an appeal review of the child’s dental records. He assigned the child’s malocclusion a score of twenty-four (24) points and determined that his condition did not meet the requirements for being determined medically necessary. (Exhibit 6: Dr. Drawbridge’s Preliminary Handicapping Malocclusion Assessment Record)
10. On [REDACTED] 2018, BeneCare received a Letter of Medical Necessity from [REDACTED]. (Exhibit 8: Letter of Medical Necessity, [REDACTED]/18)
11. On [REDACTED] 2018, BeneCare sent a letter to the Appellant advising her that the child’s score of twenty-four (24) points was less than the twenty-six points (26) needed to receive coverage for braces. There was no presence found of any deviations affecting the mouth or underlying structures or presence of related mental, emotional and/or behavior problems, disturbances, or dysfunctions. (Exhibit 9: Determination letter, [REDACTED] 8)
12. On [REDACTED], 2018, BeneCare conducted another review of the documents related to the Appellant’s request for orthodontic services. Orthodontic services for the child were approved by the Department’s Dr. Donna Balaski. (Exhibit 10: Approval Notice, [REDACTED]/18)

CONCLUSIONS OF LAW

1. Section 17b-2 & 17b-262 of the Connecticut General Statutes designates that the Department is the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program.

2. Uniform Policy Manual ("UPM") § 1570.25 (c)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department's policies and regulations. The Fair Hearing decision is intended to resolve the dispute.

UPM § 1570.25(F)(1) provides that the Department must consider several types of issues at an administrative hearing, including the following:

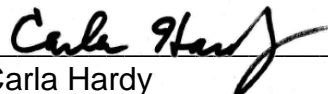
- a. eligibility for benefits in both initial and subsequent determinations

The Department approved the Appellant's request for orthodontic treatment on [REDACTED], 2018. Thus, the Appellant has not experienced any loss of benefits.

The Appellant's hearing issue has been resolved. Therefore, there is no issue on which to rule. "When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921). 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.



Carla Hardy
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 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. 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.