

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

██████████ 2021
SIGNATURE CONFIRMATION

██████████
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Request # 168536

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2020, CT Dental Health Partnership (“CTDHP”), 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 ██████████, 2020, ██████████ (the “Appellant”), requested an administrative hearing to contest the Department’s denial of the prior authorization request for orthodontia.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, 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 participated in the hearing:

██████████ Appellant
Cindy Ramos, Grievance and Appeals Representative, CTDHP
Dr. Vincent Fazzino, Dental Consultant, CTDHP
Carla Hardy, Hearing Officer

Due to the COVID-19 Pandemic, the hearing was held as a telephonic hearing.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's denial of a prior authorization request for the child's orthodontia as not medically necessary was correct and in accordance with state statutes and regulations.

FINDINGS OF FACT

1. The Appellant is the child's mother. (Hearing Record)
2. The child is 13 years old (DOB [REDACTED]/07). (Exhibit 1: Prior Authorization Claim Form; Appellant's Testimony)
3. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] (the "treating orthodontist") is the child's treating orthodontist. (Exhibit 1: Prior Authorization Claim Form; Hearing Summary)
5. On [REDACTED] 2020, CTDHP received a prior authorization request for braces for the child. (Exhibit 1: Prior Authorization Claim Form; Hearing Summary)
6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of twenty-three (23) points. Also included were models and x-rays of the child's teeth. The treating orthodontist did not indicate that the child presented with other severe deviations affecting her mouth and underlying structures. He commented, "See Referral. Patient does not qualify on points. Please consider accepting. Due to crossbites and crowding. Thank you." (Exhibit 1; Exhibit 2: The Treating Orthodontist's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
7. On [REDACTED] 2020, Dr. Vincent Fazzino, DMD, an Orthodontic Consultant for CTDHP reviewed the dental records and evidence provided by the child's treating orthodontist and assigned her a score of seventeen (17) points on the Malocclusion Severity Assessment. He noted that there is no presence of other severe deviations affecting the child's mouth and underlying structures. Dr. Fazzino determined that orthodontic treatment is not necessary. He did not approve the request for braces. (Exhibit 3: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
8. On [REDACTED] 2020, CTDHP sent an NOA to the child advising her that the prior authorization request received from her provider for braces (orthodontics) was denied as not medically necessary, because (1) her score of seventeen (17) 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 that orthodontic treatment will significantly improve such problems, disturbances or dysfunctions.” (Exhibit 4: NOA, ██████/20)

9. On ██████ 2020, the Department received the Appellant’s request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing; Hearing Summary)
10. On ██████ 2020, pursuant to the Appellant’s appeal filed on ██████ 2020, Dr. Geoffrey Drawbridge, DDS, a Dental Consultant for CTDHP conducted an appeal review of the child’s dental records. He assigned the child’s malocclusion a score of twenty-one (21) points. He did not find the presence of other severe deviations affecting the child’s mouth and underlying structures. Dr. Drawbridge commented, “Provider comments noted and scored.” Dr. Drawbridge did not approve the request for braces. (Exhibit 6: Dr. Drawbridge’s Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
11. On ██████ 2020, CTDHP notified the Appellant that her child’s score of twenty-one (26) points was less than the twenty-six (26) points needed to receive coverage for braces. They did not find the presence of any deviations affecting the child’s mouth or underlying structures. Nor did they find evidence of any treatment by a licensed psychiatrist or psychologist related to the condition of the child’s teeth. CTDHP upheld the denial for braces. (Exhibit 7: Determination Letter, ██████/20)
12. The child is not receiving psychiatric or psychological treatment related to the condition of her mouth. (Appellant’s Testimony)
13. The child is unable to chew steak and has pain that comes and goes. (Appellant’s Testimony)
14. The child recently developed a popping in her jaw. This new development has not been discussed with the child’s treating orthodontist. (Appellant’s Testimony)
15. On ██████, 2021, the treating orthodontist submitted a letter in support of braces for the child. He commented, “It is my professional opinion that my patient, ██████ ██████ [sic], would greatly benefit from full orthodontic treatment while young, including the use of an expander appliance followed by braces. If she does not receive this treatment before her palate is fused and fully formed, the same expansion would require surgery as an adult.” (Exhibit 9: Letter from the treating orthodontist, faxed ██████/21)

16. On [REDACTED] 2021, Dr. Fazzino reviewed the letter provided by the child's treating orthodontist. Dr. Fazzino commented, "The letter from [REDACTED] has been received and reviewed. This does not alter the assessment record." (Exhibit 10: Dr. Fazzino's review of [REDACTED] letter, [REDACTED]/21)
17. Dr. Fazzino could not comment on the specific treatment mentioned in the treating orthodontist's letter because he has not seen the child and did not discuss options with her. (Dr. Fazzino's Testimony)
18. Dr. Fazzino stated that the treating orthodontist did not indicate that the child had other deviations affecting her mouth and that the evidence provided did not meet the criteria for approval for braces. (Dr. Fazzino's Testimony)
19. The issuance of this decision is timely under Connecticut General Statutes 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] 2020. Therefore, this decision is due not later than [REDACTED] 2021, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
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. [Conn. Gen. Stat. § 17b-259b(a)]

3. Orthodontic services will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Regs., Conn. State Agencies § 17-134d-35(a)]
4. Orthodontic services are limited to recipients under twenty-one (21) years of age. [Regs., Conn. State Agencies § 17-134d-35(d)]
5. "The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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. . . ." [Conn. Gen. Stat § 17b-282e]
6. 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).[Regs., Conn. State Agencies § 17-134d-35(f)(1)]
7. The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Regs., Conn. State Agencies § 17-134d-35(f)(1)(D)]
8. **Because the child's two CTDP Malocclusion Severity Assessments were less than 26 points and there was no substantial evidence presented about the presence of severe deviations affecting her mouth and underlying structures, orthodontic services are not determined medically necessary.**
9. **Because the Appellant did not provide evidence from a licensed child psychologist or licensed child psychiatrist indicating the child suffered from the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions caused by her dental deformity, orthodontic services are not determined medically necessary.**
10. **The child's malocclusion severity does not meet the criteria for medical necessity for approval of the prior authorization request for orthodontic treatment.**

11. CTDHP correctly denied the request for orthodontic treatment for the child as it is not medically necessary.

DECISION

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



Carla Hardy
Hearing Officer

Pc: Magdalena Carter, 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, 165 Capitol Avenue, 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.