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

[redacted] **2016**
Signature Confirmation

Client ID # [redacted]
Request # 716913

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2015, Connecticut Dental Health Partnership ("CTDHP") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of payment for orthodontia for her daughter, [redacted]. The notice of action informed the Appellant that orthodontia was not medically necessary for [redacted] as the severity of her malocclusion did not meet the requirements set out in state statute and regulations for medical necessity.

On [redacted] 2015, the Appellant requested an administrative hearing to contest CTDHP's denial of prior authorization of payment for orthodontia.

On [redacted] 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for [redacted] 2015.

The Appellant requested that OLCRAH reschedule her hearing. This request was granted.

On [redacted] 2015, OLCRAH rescheduled the Appellant's hearing to [redacted] 2015.

On [redacted] 2015, 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 were present at the hearing:

[redacted], Appellant
[redacted] Member/Patient
Awilda Maldonado, CTDHP Representative
Dr. Gary Rappaport, Dental Consultant-CTDHP, participation by telephone
Pamela J. Gonzalez, Hearing Officer

The hearing record was held open to allow CTDHP to review and comment on a medical statement that the Appellant presented at the hearing and for the Appellant to reply to said comment. The record closed on [redacted] 2015.

On [redacted] 2015, the Appellant sent a letter by FAX to state that she had not received CTDHP's response to the medical statement that she submitted.

On [redacted] 2015, OLCRAH re-opened the hearing record and shared CTDHP's response to the medical statement with the Appellant. The record was held open for the Appellant's response-submission of additional information.

On [redacted] 2016, the hearing record closed.

No additional information was received from the Appellant.

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization of payment for [redacted] orthodontic services was correct in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant is [redacted] mother. (Hearing Record)

2. [redacted] (D.O.B. [redacted]05) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)

3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)

4. BeneCare is the Administrative Service Organization managing the Connecticut Dental Health Partnership for the State of Connecticut. (Hearing record)

5. Dr. R. Scott Smith is [redacted] treating orthodontist (the "treating orthodontist"). (Orthodontia Services Claim Form – CTDHP's exhibit 1)

6. On [redacted] 2015, the treating orthodontist requested prior authorization for payment of orthodontic services for [redacted] (CTDHP's exhibit 1)

7. Dr. Smith submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 30 points, dental models and x-rays of [redacted] mouth. Dr. Smith commented, "Patient late mixed dentition and would greatly benefit from early intervention". (Malocclusion Assessment Record dated as received [redacted] 2015 – CTDHP's exhibit 2)

8. On [redacted] 2015, Dr. Benson Monastersky, CTDHP's orthodontic dental consultant, independently reviewed [redacted] models and x-rays, and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky found no presence of severe deviations affecting the mouth and underlying structures. He commented, "Does not meet Phase I guidelines". (Preliminary Handicapping Malocclusion Assessment Record, [redacted]/15 – CTDHP's exhibit 3)

9. On [redacted] 2015, CTDHP denied the treating orthodontist's request for prior authorization of orthodontic services as not medically necessary. [redacted] teeth scored less than the 26 points needed for coverage, her teeth are not crooked enough to qualify for braces and they currently pose no threat to the jawbone or the attached soft issue. (Notice of Action for Denied Services or Goods, [redacted] 2015 – CTDHP's exhibit 4)

10. On [redacted] 2015, Dr. Geoffrey Drawbridge, CTDHP's dental consultant, independently reviewed [redacted] models and x-rays and arrived at a score of 18 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. (Preliminary Handicapping Malocclusion Assessment Record, [redacted]/15 – CTDHP's exhibit 7)

11. On [redacted] 2015, CTDHP notified the Appellant that orthodontic treatment was not medically necessary. (Notice upholding the previously denied services dated [redacted] 2015 – CTDHP's exhibit 8)

12. The evidence in the record does not indicate the presence of severe deviations affecting [redacted] mouth and its underlying structures. (CTDHP's exhibit's 2, 3, 7, Hearing record)

13. The evidence in the record does not indicate that [redacted] is being treated by a licensed child psychiatrist or child psychologist for issues related to the condition of her teeth. (CTDHP's exhibit's 2, 3, 6, Hearing record)

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]

2. 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)]

3. Conn. Gen. Stat.§ 17b-259b 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.

4. Public Act 15-5 (June Sp. Session, section 390) provides, in relevant part, as follows: “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 individual's daily functioning."

6. 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)]

7. In this case, the study models submitted for prior authorization do not show occlusal deviations that meet the requirement of a 26 point score on the preliminary assessment, nor is there evidence about the presence of other severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth and underlying structures.

8. In this case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that [redacted] receive orthodontic treatment to significantly ameliorate mental, emotional, and or behavior problems, disturbances or dysfunctions.

10. CTDHP correctly denied the request for prior authorization because [redacted] malocclusion does not meet the medical necessity requirements for orthodontic services, in accordance with state statutes and regulations.

DISCUSSION

State regulations allow the Medicaid program to authorize and pay for orthodontic treatment when a correctly scored Preliminary Handicapping Malocclusion Assessment results in at least 26 points. In this case, the treating orthodontist gave [redacted] a score of 30 points and two dentists in blind reviews gave [redacted] scores of less than the requisite 26 points. They independently scored 22 and 18 points.

At the hearing the Appellant presented a letter from the treating orthodontist stating that [redacted] would greatly benefit from Phase I treatment. He said in the letter that she has a maxillary skeletal insufficiency with a skeletal anterior open bite. He recommends braces on the upper teeth with a palatal expansion appliance in hopes that early intervention would decrease the need for surgery in the future.

While it is clear from all three of the Assessment Records that [redacted] has an anterior openbite, the evidence presented does not support a finding of medical

necessity. [redacted] scores do not meet the magnitude criteria which require a score of at least twenty-six points on a correctly scored Preliminary Handicapping Malocclusion Assessment. In addition, there was no evidence of a substantial nature presented to indicate the presence of severe deviations that meet the criteria for payment authorization.

The close of the record was extended to allow CTDHP to consider the medical statement that the Appellant presented at the hearing. The record was subsequently reopened to allow the Appellant to return comment. No information was received from the Appellant following CTDHP's comment on the medical statement.

DECISION

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

Pamela J. Gonzalez
Hearing Officer

Copy: Awilda Maldonado, CTDHP, P.O. Box 486 Farmington, CT 06032
Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita Larose, CTDHP, P.O. 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.