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

2016 Signature Confirmation

Client ID # Request # 726645

## **NOTICE OF DECISION**

# **PARTY**



PROCEDURAL BACKGROUND
On 2015, BeneCare Dental Plans ("BeneCare") sent (the "Appellant") a notice of action ("NOA") denying a request for prior authorization of orthodontic treatment for her minor child, indicating that the severity of malocclusion did not meet the medical necessity requirement to approve the proposed treatment.
On 2015, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.
On 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for 2015.
On 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:
Appellant Nettie Sarro, BeneCare's representative

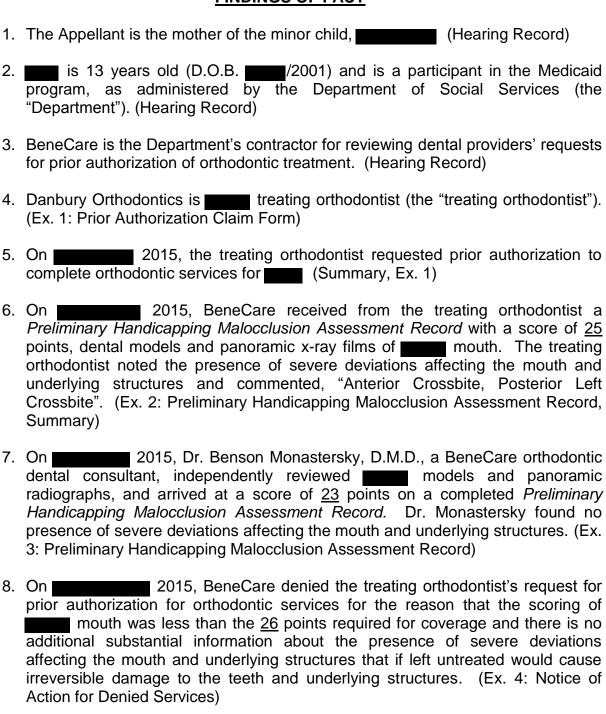
Dr. Greg Johnson, BeneCare's Dental Consultant, via telephone

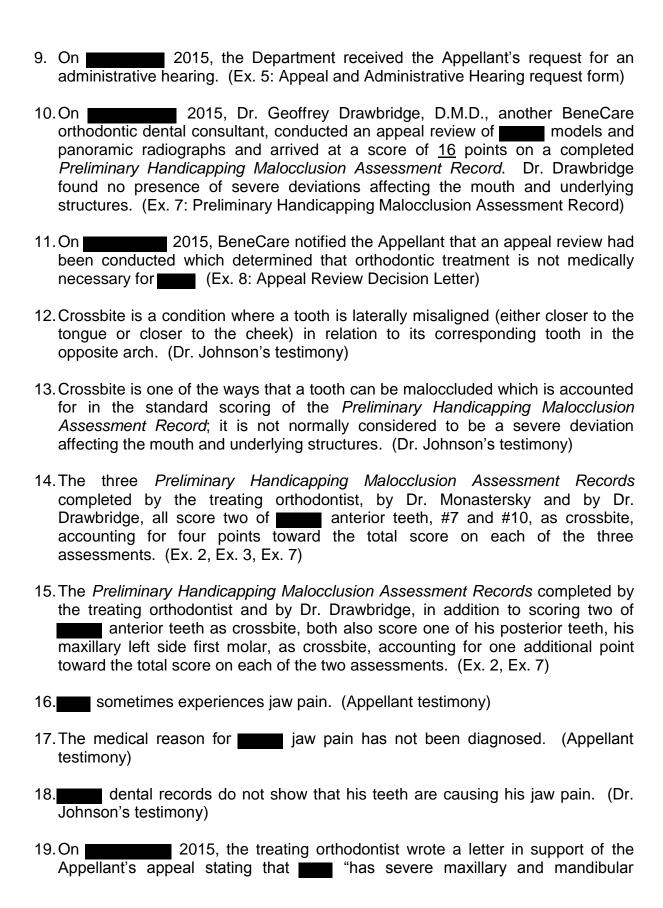
James Hinckley, Hearing Officer

#### STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for orthodontic services as not medically necessary was in accordance with state statute and regulations.

## FINDINGS OF FACT





crowding with teeth in anterior and posterior crossbite causing functional deviations. Additionally, the patient has a class III tendency with a family history of excessive mandibular growth". (Ex. A: 2015 letter from CT Braces – Danbury Orthodontics)

- 20.On 2015, Dr. Robert Gange, D.D.S., another BeneCare orthodontic dental consultant, reviewed the treating orthodontist's 2015 letter and conducted a second appeal review of models and panoramic radiographs. Dr. Gange found no presence of severe deviations affecting the mouth and underlying structures and arrived at a score of 17 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. (Ex. 9: Preliminary Handicapping Malocclusion Assessment Record)
- 21. is not being treated for any mental health condition, and has never been diagnosed by a psychiatrist or psychologist with any mental disorder classified in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (the "DSM"). (Appellant testimony)

#### **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.
- Connecticut Agencies Regulations §17-134d-35(a) provides that orthodontic 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.
- 3. Connecticut General Statutes §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. Connecticut Agencies Regulations §17-134d-35(f) 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.
- 5. Public Act 15-5 (June Sp. Session, section 390) 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 individual's daily functioning.
- 6. study models submitted for prior authorization did not show the occlusal deviations necessary to support a <u>26</u> point score on the preliminary assessment.
- 7. study models and panoramic radiographs submitted for prior authorization did not show severe deviations affecting the oral facial structures.
- 8. There is no indication that has mental, emotional, and/or behavior problems or disturbances which are relevant to the determination of whether orthodontic treatment is medically necessary for him.
- 9. BeneCare was correct to find that male malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.
- 10. BeneCare was correct to deny prior authorization because did not meet the medical necessity criteria for orthodontic services, in accordance with state statute and regulations.

#### **DISCUSSION**

The Department uses a standardized assessment to determine whether orthodontic treatment is medically necessary for children under the age of 21. Each misaligned tooth is scored for the assessment and the total point score is used to measure of the overall severity of the dental condition. When a properly scored assessment results in a score of 26 points or greater, orthodontic treatment is considered medically necessary

because the severity of the condition would be expected to significantly interfere with dental health and function. When the total score on the assessment is less than <u>26</u> points the Department also considers whether orthodontic treatment may be medically necessary due to the presence of other severe deviations affecting the oral facial structures.

Of the four reviews of	teeth, by his trea	ting orthodontist	and by three differe	ent
BeneCare orthodontic consu	lltants, none of the	e four assessmer	nts determined that	
qualified for a score of 26 po	oints or greater. W	Vhile the treating	orthodontist noted	on the
prior authorization request tl	nat had seve	ere deviations affe	ecting his mouth, th	е
conditions listed as severe of		,		
point score of the assessme	nt and did not qua	alify as severe de	viations, and none	of the
other three orthodontists wh	o evaluated	mouth found the	e presence of seve	re
deviations.				

## **DECISION**

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

James Hinckley Hearing Officer

cc: 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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.