

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 # 727896

NOTICE OF DECISION
PARTY

██████████
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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2015, BeneCare Dental Plans (“BeneCare”) administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of orthodontia for ██████████ ██████████ the minor child, indicating that that the severity of ██████████ malocclusion did not meet the requirements in state law to approve the proposed treatment, and that orthodontia was not medically necessary.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia for ██████████

On ██████████ 2015, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2015.

On ██████████, 2015, the Appellant requested to reschedule the hearing.

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:

██████████, the Appellant

██████████, Witness

Karina Reininger, CTDHP Grievance & Appeals Representative

Dr. Vincent Fazzino, Clinical Consultant for CTDHP, via telephone

Shelley Starr, Hearing Officer

The hearing record remained open for the submission of additional information. On ██████████, 2015, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for ██████████ orthodontic services was in accordance with state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, ██████████ ██████████. (Hearing record and Appellant's testimony)
2. ██████████ is 10 years old (D.O.B. ██████████/05) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record; Exhibit 1: Bridgeport Orthodontics' Claim Form)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing record)
4. Dr. Desai of Bridgeport Orthodontics is ██████████ treating orthodontist (the "treating orthodontist"). (Hearing Summary; Exhibit 2: Bridgeport Orthodontics' Assessment)
5. On ██████████ 2015, the treating orthodontist requested prior authorization to complete orthodontic services for ██████████ (Exhibit 1: Orthodontia Services claim form dated ██████████ 2015)
6. On ██████████ 2015, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 27 points, dental models and x-rays of ██████████ mouth. Dr. Desai checked the box advising there is the presence of other severe deviations affecting the mouth and underlying structures. Dr. Desai commented: "anterior open bite" (Exhibit 2: Malocclusion Assessment Record, received ██████████ 2015)
7. On ██████████, 2015, Dr. Benson Monastersky, D.M.D., BeneCare's orthodontic dental consultant, independently reviewed ██████████ X-rays, and models of his teeth, and arrived at a score of 18 points on a completed Preliminary Handicapping

Malocclusion Assessment Record. Dr. Monastersky checked the box advising there is no presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, signed by Dr. Monastersky, [REDACTED] 2015.)

8. On [REDACTED] 2015, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the documents provided to CTDHP provided no evidence that the requested service met the medically necessary/medical necessity care conditions set by the Department. (Exhibit 4: Notice of Action for Denied Services or Goods, dated [REDACTED] 2015)
9. On [REDACTED] 2015, the Department received the Appellant's request for an administrative hearing on the denial of braces for [REDACTED] (Exhibit 5: Hearing request, dated [REDACTED] 2015)
10. On [REDACTED] 2015, Dr. Geoffrey Drawbridge, D.M.D. BeneCare's orthodontic consultant, independently reviewed [REDACTED] models and x-rays, and arrived at a score of 12 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge checked the box advising there is no presence of other severe deviations affecting the mouth and underlying structures. Dr. Drawbridge commented, "The diagnostic information available shows satisfactory arch form/symmetry with only moderate overjet and adequate overbite, possible lateral openbite indicative of tongue posture but overall low correlation with manifested speech pathology. Additional dental maturation could give better implication of dental contribution." (Exhibit 6: Dr. Drawbridge's Assessment dated [REDACTED], 2015)
11. On [REDACTED] 2015, BeneCare notified the Appellant that [REDACTED] appeal review score of 12 points did not meet the requirements for orthodontic treatment and that such treatment was not medically necessary. (Exhibit 7: Letter regarding Orthodontic Services dated [REDACTED], 2015)
12. [REDACTED] has no problems chewing and swallowing food. (Appellant's testimony)
13. [REDACTED] has no pain or infection of the mouth. (Appellant's testimony)
14. [REDACTED] is receiving speech therapy twice a week by his school speech therapist. (Appellant's testimony and Appellant's Exhibit A: Speech Assessment signed by Lynne S. Lane, MA/CCCS)
15. [REDACTED] is not receiving treatment by a qualified psychiatrist or psychologist for related mental, emotional or behavior problems, disturbances or dysfunctions. (Appellant's testimony)
16. [REDACTED] is involved in school activities and he is a good student. (Appellant's testimony)

17. On [REDACTED] 2015, the Appellant provided a speech assessment conducted by Lynne S. Lane, Speech-language Pathologist advising that "[REDACTED] a child of 10 years and 11 months, presents with severe overbite, and articulation at the 7 year old level. His speech deficits would negatively impact his education and ability to communicate in the classroom setting. He would benefit from continued speech therapy on a more intensive level and orthodontia to bring his teeth into alignment." (Appellant's Exhibit A: Speech Assessment; Lynne Lane, MA, CCCS)
18. On [REDACTED] 2015, Dr. Benson Monastersky, orthodontic dental consultant, reviewed the letter from the speech therapist and assessment sheets. Dr. Monastersky advised that [REDACTED] did not meet the qualifications for orthodontic services.

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. Connecticut Agencies Regulations §17-134d-35(a) 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.
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. Public Act 15-5 (June Special 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 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 individual's daily functioning."

5. 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.
6. ████████ study models submitted for prior authorization do not show severe occlusal deviations affecting the mouth and underlying structures; and do not meet the requirement of a 26 point score on the preliminary assessment.
7. The Department was correct to find that ████████ malocclusion did not meet the requirement for severity, or 26 points, as established in state regulations.
8. BeneCare was correct to deny prior authorization because ████████ does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

DISCUSSION

State regulations provide that when a child is correctly scored with at least 26 points on a Preliminary Handicapping Malocclusion Assessment Record, a test measuring severity of malocclusion and dentofacial deformity, the Medicaid program will authorize and pay for orthodontic treatment. The treating orthodontist scored the malocclusion of ████████ teeth to equal 27 points. Two dentists in blind reviews independently assessed ████████ models and scored the malocclusion to equal 18 and 12 points. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

The Appellant did not provide any other evidence of a substantial nature to indicate the presence of other severe deviations affecting the mouth and underlying structures. The treating orthodontist did not comment or advise of the presence of other deviations affecting the mouth and underlying structures other than an "anterior open bite". A licensed psychiatrist or licensed psychologist has not recommended that ████████ receive orthodontic treatment to significantly ameliorate his mental, emotional, and or behavior problems, disturbances or dysfunctions.

The undersigned hearing officer finds that [REDACTED] malocclusion did not meet the requirement for severity, or 26 points, as established in state regulations to allow the Medicaid program to pay for orthodontic services.

DECISION

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



Shelley Starr
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, law, and 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 06105-3725.

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, if 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 06105-3725. 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 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.