

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 # 729933

**NOTICE OF DECISION**

**PARTY**

██████████  
Re: ██████████  
██████████  
██████████

**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  
Melissa Miyasato, Translator, ITI Translates  
Awilda Maldonado, BeneCare’s representative  
Dr. Vincent Fazzino, BeneCare’s Dental Consultant, via telephone  
James Hinckley, Hearing Officer

**Por favor vea la copia incluida de esta decision en espanol.**

### **STATEMENT OF THE ISSUE**

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

### **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child, [REDACTED] (Hearing Record)
2. [REDACTED] is 12 years old (D.O.B. [REDACTED]/2003) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Columbia Dental is [REDACTED] treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED] 2015, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED] (Summary, Ex. 1)
6. On [REDACTED] 2015, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 18 points, dental models and panoramic x-ray films of [REDACTED] mouth. The treating orthodontist did not note the presence of severe deviations affecting the mouth and underlying structures. The treating orthodontist commented, "Impacted #11". (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record, Summary)
7. A tooth is impacted when it cannot erupt, because it is stuck inside the bone, or under the soft tissue. (Dr. Fazzino's testimony)
8. On [REDACTED] [REDACTED] 2015, Dr. Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 20 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky found no presence of severe deviations affecting the mouth and underlying structures. Dr. Monastersky commented "#11 appears to be erupting toward the buccal" (cheek side). (Summary, Ex. 3: Preliminary Handicapping Malocclusion Assessment Record)

9. If a tooth is erupting, then it is not impacted, even if it erupting into a less than ideal position. (Dr. Fazzino's testimony)
10. On [REDACTED] 2015, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of [REDACTED] mouth was less than the 26 points required for coverage and there is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation has been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment will significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)
11. On [REDACTED] 2015, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
12. On [REDACTED] 2015, Dr. Geoffrey Drawbridge, D.M.D., another BeneCare orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic radiographs and arrived at a score of 13 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. Dr. Drawbridge commented "#11 not impacted". (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record, Hearing Summary)
13. On [REDACTED] 2015, BeneCare notified the Appellant that an appeal review had been conducted that determined orthodontic treatment is not medically necessary for [REDACTED] (Ex. 7: Appeal Review Decision Letter)
14. [REDACTED] has no medical problems that are related to the condition of her teeth. (Appellant testimony)
15. [REDACTED] 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"), and is not being treated for any mental health condition. (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.
2. 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) provides 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.
7. █████ study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment.
8. BeneCare was correct to find that █████ malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.

9. [REDACTED] study models and panoramic radiographs submitted for prior authorization did not show severe deviations affecting the oral facial structures.
10. [REDACTED] has not been diagnosed by a child psychologist or child psychiatrist with a severe condition defined in the DSM which would be significantly helped by orthodontic treatment.
10. BeneCare was correct to find that there is no substantive information regarding the presence of severe deviations affecting the oral facial structures, or regarding the presence of severe mental, emotional or behavioral problems or disturbances, which must be considered in determining the need for orthodontic services for [REDACTED]
11. BeneCare was correct to deny prior authorization because [REDACTED] 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 26 points the Department also considers whether orthodontic services are needed because of the presence of severe deviations affecting the oral facial structures, or because a severe condition has been diagnosed by a child psychologist or child psychiatrist which would be significantly helped by orthodontic treatment.

All three orthodontists who assessed [REDACTED] mouth, including the treating orthodontist, determined that the malocclusion of her teeth did not qualify for a score of 26 points or greater. Both of BeneCare's orthodontic consultants who evaluated [REDACTED] dental records also concluded that she did not have any severe deviations affecting her mouth. [REDACTED] tooth #11 is not erupting into its ideal position, but it is not impacted, and it does not qualify as a severe deviation that, if left untreated, would result in irreversible damage.

**DECISION**

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

*James Hinckley*

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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 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.