

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3730

██████████ 2016  
Signature Confirmation

Client ID # ██████████  
Request # 734979

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, Connecticut Dental Health Partnership (“CTDHP”) Benecare Dental Health Plans (“BeneCare”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) stating that it had denied a prior authorization request for approval of braces for ██████████, her minor child as not medically necessary, pursuant to Section 17b-259b of the Connecticut General Statutes. The NOA stated that the severity of the child’s malocclusion did not meet the criteria set in state regulations 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, 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, 17-61 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  
██████████ the Appellant's minor child  
Luz Quinones, CTDHP Grievance & Appeals Representative  
Dr. Greg Johnson, via telephone conference  
Maureen Foley-Roy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for the Appellant's child's orthodontic services was correct.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the child, ██████████ whose date of birth is ██████████ 2002 (Hearing record and Exhibit 1: Prior Authorization Request)
2. The child is a participant in the Medicaid program, as administered by the Department. (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On ██████████ 2015, BeneCare received a prior authorization request from Dr. Robert Adams for orthodontics (braces) for the ██████████ (Exhibit. 1: ADA Dental Claim Form)
5. On ██████████ 2015, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 19 points, dental models and X-rays of the Appellant's child's mouth from Dr Adams. Dr. Adams indicated that braces should be considered because of blocked out #6 and crossbite #7.(Exhibit 2: Malocclusion Assessment Record from Kelly Family Orthodontics)
6. A crossbite is not considered a severe deviation and is included in the scoring on the Malocclusion Assessment Record. (Dr. Johnson's testimony)
7. On ██████████ 2015, Dr. Benson Monastersky, D.M.D., BeneCare's orthodontic consultant, reviewed all of the information submitted by the treating orthodontist and determined that ██████████ scored 20 points on the Malocclusion Assessment Record and that there were no severe deviations affecting the mouth and underlying structures. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)
8. On ██████████ 2015, BeneCare issued a notice denying the request for braces for ██████████ (Exhibit 4: Notice of Action for Denied Services)

9. On [REDACTED] 2015, the Department received the Appellant's request for an administrative hearing regarding the denial of authorization of payments for braces for [REDACTED] (Exhibit. 5: Appeal, Hearing Request,)
10. On [REDACTED] 2015, Dr. Geoffrey Drawbridge, dental consultant for CTDHP, reviewed the child's record and arrived at a score of 22 points on the Malocclusion Assessment Record. Dr. Drawbridge found that there were no severe deviations affecting [REDACTED] mouth or underlying structures. (Exhibit 7: Dr. Drawbridge's Malocclusion Assessment Record)
11. [REDACTED] is concerned with the appearance of his teeth and he doesn't smile. He is teased about the appearance of his teeth. (Appellant's testimony)
12. It is difficult for [REDACTED] to chew and to clean his teeth due to their positioning. ([REDACTED] testimony)
13. [REDACTED] canine teeth and one adjacent to it are not aligned with the other teeth, causing him problems with his gums. (Appellant's and [REDACTED] testimony)
14. The issues with [REDACTED] teeth are not affecting his health. (Appellant's testimony)
15. All of the difficulties with [REDACTED] teeth relate to his top teeth; his bottom teeth do not have problems. ([REDACTED] testimony)
16. There is no evidence in the hearing record that the child experiences mental, emotional or behavior problems related solely to his dental condition.
17. On [REDACTED] 2015, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for her child was denied for the following reasons: his score of 22 points was less than the 26 points needed for coverage; there was no presence found of any deviations affecting the mouth or underlying structures; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the conditions of his teeth. (Ex. 8: BeneCare determination letter)

### **CONCLUSIONS OF LAW**

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. For the purposes of the administration of the medical assistance programs by the Department, "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. 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)]
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 individuals daily functioning."

5. 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)]
6. BeneCare correctly determined that [REDACTED] is not being treated by a licensed psychiatrist or psychologist who recommends orthodontic treatment to significantly ameliorate her child's mental, emotional, and or behavior problems, disturbances or dysfunctions.
7. The Department correctly found that [REDACTED] malocclusion did not meet criteria for severity, or 26 points, as established in state regulations.
8. The Department correctly determined that [REDACTED] did not have a deviation of such severity that it would cause irreversible damage to the teeth and underlying structures if left untreated.
9. The Department correctly determined that there was no evidence of emotional issues directly related to [REDACTED] teeth.
10. The Department correctly determined that [REDACTED] medical conditions do not render braces medically necessary for him at this time as per the regulations.

### **DISCUSSION**

None of the three dentists who viewed the models and X-rays of [REDACTED] teeth scored twenty-six points, the degree established by regulation to find orthodontia medically necessary. Dr. Adams requested consideration due to deviations affecting [REDACTED] mouth but one such deviation is accounted for in the scoring and neither of the other two dentists independently found severe deviations. While [REDACTED] does have issues with his teeth and mouth, they do not rise to a level where orthodontia would be medically necessary.

### **DECISION**

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

*Maureen Foley-Roy*  
Maureen Foley-Roy  
Hearing Officer

Pc: Diane D'Ambrosio, CTDHP  
Rita LaRosa, CTDHP

### **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.

### **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 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.