

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 # 737091

NOTICE OF DECISION  
PARTY

██████████  
For: ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, BeneCare Dental Plans (“BeneCare”) sent ██████████ ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of orthodontia for ██████████, her minor child, indicating that the severity of ██████████ 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, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016 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  
Kate Nadeau, BeneCare’s Representative  
Dr. Brett Zanger, Benecare’s Dental Consultant, by phone  
Scott Zuckerman, Hearing Officer

The hearing record remained open for the review of additional evidence. On ██████████ 2016, the hearing record closed.

## **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services was in accordance with state 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. (Appellant Testimony, Hearing Record)
3. Benecare is the Department's contractor for reviewing dental providers requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Kool Smiles is [REDACTED] treating orthodontist ("the treating orthodontist"). (Hearing Summary, Exhibit 1: Orthodontia Services Claim Form)
5. On [REDACTED] 2015, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED] (Hearing Summary, Ex. 1: Claim form)
6. On [REDACTED] 2015, BeneCare received from Kool Smiles, a Preliminary Handicapping Malocclusion Assessment Record with a score of 30 points, Dental models and Panorex films of [REDACTED] mouth. (Ex. 2: Malocclusion Assessment Record, [REDACTED]/15)
7. On [REDACTED] [REDACTED] 2015, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 21 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky also found no presence of severe deviations affecting the mouth and underlying structures. (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/15)
8. 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 needed for coverage and [REDACTED] teeth are not crooked enough to qualify for braces and they currently pose no threat to the jawbone or the attached soft issue. (Ex. 4: Notice of Action for Denied Services or Goods, [REDACTED]/15)
9. On [REDACTED] [REDACTED] 2015, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, reviewed [REDACTED] models and panoramic radiographs and arrived at a score of 23 points on a completed Preliminary

Handicapping Malocclusion Assessment Record. Dr. Drawbridge also found no presence of severe deviations affecting the mouth and underlying structures. (Ex. 7: Preliminary Handicapping Malocclusion Assessment Record, █████/15)

10. On █████ 2015, BeneCare notified the Appellant that █████ score of 23 points did not meet the criteria for orthodontic treatment. (Ex. 8A: Letter Regarding Orthodontic Services, █████/15)
11. On █████ 2015, an administrative hearing was conducted. The Appellant provided a letter from the treating orthodontist indicating a flaw in the original models and provided a new models. (Ex. A: Letter from Kool Smiles)
12. On █████ 2015 after reviewing medical documentation, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, reviewed █████ models and panoramic radiographs and arrived at a score of 34 points on a completed Preliminary Handicapping Malocclusion Assessment Record. **Benecare approved orthodontia services for █████** (Ex. 10: Preliminary Handicapping Malocclusion Assessment Email and from Benecare, █████/15)

### 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. The Department approved orthodontia for █████ because it was determined to be medically necessary.
4. UPM § 1570.05(B) provides that subject to the conditions described in this chapter, the requester has the right to a Fair Hearing if: (1) the Department denies the assistance unit's application for benefits.
5. UPM § 1570.05(C)(2) provides that the Department denies or dismisses a request for a fair hearing if the requester or his or her representative withdraws the request in writing.
6. The Appellant did not withdraw her request for a hearing in writing.

7. The Appellant's appeal is moot because **Benecare approved orthodontia for [REDACTED] therefore there is no issue on which to rule.**

**DECISION**

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



Scott Zuckerman  
Hearing Officer

Pc: 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 Administrative Hearings and Appeals, 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, 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.