

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 # 737097

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, BeneCare Dental Health Plans (“BeneCare”), administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia for ██████████, her minor child. The NOA stated that the severity of the ██████████ 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, 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  
██████████ aunt  
Awilda Maldonado, CTDHP Grievance & Appeals Representative  
Dr. Gregory Johnson, CTDHP Dental Consultant, via telephone conference call  
Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the Appellant to submit additional evidence and for a review by a third orthodontist. On [REDACTED] 2016, the 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 correct.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the eleven year old child, [REDACTED] [REDACTED] [REDACTED] whose date of birth is [REDACTED] 2004. (Hearing record and Exhibit 1: Request claim form)
2. [REDACTED] is a participant in the Medicaid program, as administered by the Department. (Hearing Record)
3. The Connecticut Dental Health Partnership, ("CTDHP") also known as BeneCare Dental Plans, is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On [REDACTED] 2015, BeneCare received a prior authorization request from Dr. Edward Cos for orthodontics (braces) for [REDACTED] (Exhibit 1: Prior Authorization Request)
5. On [REDACTED] 2015, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 31 points, dental models and X-rays of [REDACTED] mouth from Dr. Edward Cos. (Ex. 2: Dr. Cos's Malocclusion Assessment Record)
6. Dr. Cos believes that orthodontia would benefit [REDACTED] for hygienic and psychosocial reasons. (Exhibit 12: [REDACTED] 2016 letter from Dr. Cos)
7. On [REDACTED] 2015, Dr. Robert Gange, DDS, BeneCare's orthodontic consultant, reviewed all of the information submitted by the treating orthodontist and determined that [REDACTED] scored 24 points on the Malocclusion Assessment Record. Dr. Gange did not respond to the question on the form regarding severe deviations of the mouth. (Ex. 3: Dr. Gange's Malocclusion Assessment Record)
8. On [REDACTED] 2015, BeneCare issued a notice denying the request for braces for [REDACTED] (Exhibit 4: Notice of Action for Denied Services)

9. On [REDACTED] 2015, Dr. Geoffrey Drawbridge, orthodontic consultant for BeneCare, independently reviewed [REDACTED] records and arrived at a score of 20 points on the Malocclusion Assessment Record. Dr. Drawbridge stated that there were no severe deviations affecting [REDACTED] mouth and underlying structures and that she did not meet the assessment criteria. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)
10. On [REDACTED] 2015, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for [REDACTED] was denied for the following reasons: her score of 20 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 her teeth. (Exhibit 7: BeneCare determination letter)
11. [REDACTED] still has two baby teeth and two of her adult teeth are erupting facially because she does not have room in her mouth for them. (Exhibit A: Letter from Dr. Dess, [REDACTED] pediatric dentist)
12. [REDACTED] is small in stature and has a small mouth. (Exhibit A, child's aunts testimony)
13. [REDACTED] has suffered with headaches daily for the past 6 to 8 months to the point where she does not want to participate in her usual activities, including dance, which had been her favorite pastime. There has not been a definitive cause found for the headaches ([REDACTED] aunt's testimony)
14. [REDACTED] primary care doctor states that [REDACTED] has unsuccessfully tried many treatments to relieve her headaches. He supports braces for [REDACTED] in the hopes that it will relieve the headaches. (Exhibit 13: Letter from Dr. Craig)
15. [REDACTED] has experienced pain when chewing; she has refused meat and crackers because of the pain in her mouth. ([REDACTED] aunt's testimony)
16. [REDACTED] father and at least two of her siblings have Gorlin syndrome, which causes tumors to appear in the head and neck. [REDACTED] has not shown any signs of the disease. (Appellant's testimony)
17. [REDACTED] is a patient of a [REDACTED]. Her therapist believes that correcting the problems that [REDACTED] has with her mouth would benefit her daily functioning, stress level and self-esteem. (Exhibit 11: letter from therapist)
18. On [REDACTED] [REDACTED] 2016, Dr. Vincent Fazzino, DMD, an independent orthodontic consultant reviewed [REDACTED] case on behalf of CTDHP. Dr.

Fazzino arrived at a score of 20 points on the Malocclusion Assessment Record and stated that ██████ does not meet the medical criteria for braces.(Exhibit 10: Dr. Fazzino's Malocclusion Assessment sheet)

19. On ██████ 2016, Dr. Fazzino resubmitted his Malocclusion Assessment scoring sheet with a note indicating that there were no severe deviations affecting ██████ mouth or underlying structures. (Exhibit 14: Dr. Fazzino's Scoring Sheet with updated note)

### **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 found that [REDACTED] malocclusion did not meet criteria for severity, or 26 points, as established in state regulations.
7. BeneCare 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.
8. There was no evidence directly linking the position of [REDACTED] teeth to her headaches.
9. BeneCare correctly determined that there was no evidence of emotional issues **directly** related to [REDACTED] teeth.
10. BeneCare correctly determined that [REDACTED] medical conditions do not render braces medically necessary for her at this time as per the regulations.

### DISCUSSION

[REDACTED] has been suffering from headaches with jaw pain that are affecting her daily functioning. There has been no cause found for the headaches and it is the opinion of several individuals that correcting the placement of [REDACTED]

teeth may help with the headaches. But there is no evidence establishing a link between the headaches and the placement of [REDACTED] teeth.

All of the dentists agree that [REDACTED] teeth are crowded. However, as she is only eleven years old and still in fact, has baby teeth; that is not surprising. [REDACTED] jaw will grow and she will lose those baby teeth, which will allow for more room in her mouth. Testimony stated that [REDACTED] is a petite, small framed person. Her regular dentist indicated that [REDACTED] mouth was "clinically small". None of the orthodontists who reviewed [REDACTED] models and Xrays commented that the size of her mouth constituted a "severe deviation." Given all the variables and uncertainty in this case, I cannot find that braces for [REDACTED] are medically necessary at this time.

### **DECISION**

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

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

CC: 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.