STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[redacted] **2016**
Signature Confirmation

Client ID # [redacted]
Request # 737664

NOTICE OF DECISION

PARTY

[redacted]
Re: [redacted]
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2015, BeneCare Dental Health Plans ("BeneCare"), administered by the Connecticut Dental Health Partnership ("CTDHP"), sent [redacted] (the "Appellant) a Notice of Action ("NOA") denying a request for prior authorization of orthodontia for [redacted], her minor child The NOA stated that the severity of the [redacted] malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On [redacted] 2015, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On [redacted] 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2016.

On [redacted] 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:

[redacted] the Appellant
Awilda Maldonado, CTDHP Representative
Raquel Pipken, Translator
Dr. Susan Lieb, CTDHP Dental Consultant, via telephone conference call
Maureen Foley-Roy, 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 through the Medicaid program for [redacted] orthodontic services was correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [redacted] whose date of birth is [redacted] 2001. (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 32 points, dental models and X-rays of [redacted] mouth from Dr. Edward Cos. (Ex. 2: Dr. Cos's Malocclusion Assessment Record)

6. The Appellant believes that braces are necessary for her child because her bite is off, her teeth will move as time passes and the bite will become worse. (Appellant's testimony)

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 22 points on the Malocclusion Assessment Record. (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 December 10 2015, Dr. Geoffrey Drawbridge, orthodontic consultant for BeneCare, independently reviewed [redacted] records and arrived at a score of

16 points on the Malocclusion Assessment Record. (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 16 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 8: BeneCare determination letter)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statures 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. BeneCare correctly determined that there was no evidence of emotional issues directly related to [redacted] teeth.

9. BeneCare correctly determined that [redacted] medical conditions do not render braces medically necessary for her at this time as per the regulations.

DISCUSSION

Three dentists came to three different figures when scoring [redacted] teeth. [redacted] does have issues with her teeth. All three dentists agree that she has an overjet of such significance that it could be scored. However, in independent reviews, two orthodontists did not find that the totality of issues with [redacted] teeth warranted braces as medically necessary. In section 2, noted on the scoring sheet as "posterior segments", the two CTDHP dental consultants

independently arrived at the same score. Dr. Lieb testified that the scoring criteria is specific and exact and measured in millimeters, saying that the different scores could be explained by differences in the way each individual takes measurements.

There was no evidence presented that braces are medically necessary for [redacted] 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

DERECHO DE SOLICITAR RECONSIDERACIÓN

El/La Apelante tiene el derecho a presentar una solicitud de reconsideración por escrito dentro de un período de **15** días a partir de la fecha de envío por correo de la decisión basándose en que hubo un error fáctico o legal, que se ha descubierto nueva evidencia o que existe otra causa suficiente. Si se acepta la solicitud de reconsideración, el/la Apelante será notificado en un plazo de 25 días después de la fecha de la solicitud. El hecho de no recibir respuesta alguna en un plazo de 25 días significa que la solicitud de reconsideración ha sido denegada. El derecho a solicitar una reconsideración se basa en la sección 4-181a (a) de las Leyes Generales de Connecticut.

Las solicitudes de reconsideración deben incluir motivos específicos para la misma; por ejemplo, indicar cuál es el error fáctico o legal, qué nuevas pruebas se encontraron o qué otra causa suficiente existe.

Las solicitudes de reconsideración deben enviarse a: Department of Social Services, Director, Office of Legal Counsel, Regulations and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105-3725.

DERECHO DE APELAR

El/La Apelante tiene el derecho de apelar esta decisión en el Tribunal Superior en un plazo de 45 días a partir del envío por correo de la presente decisión o 45 días después de que la agencia haya denegado una solicitud de reconsideración de la presente decisión, siempre que dicha solicitud de reconsideración haya sido presentada a tiempo ante el Departamento. El derecho de apelar se basa en la sección 4-183 de las Leyes Generales de Connecticut. Para apelar, se debe presentar una petición ante el Tribunal Superior. Debe entregarse una copia de la petición a la: Office of the Attorney General, 55 Elm Street, Hartford, CT 06106, o al: Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. También debe entregarse una copia de la petición a todas las partes de la audiencia.

El período de apelación de 45 días puede prorrogarse en algunos casos si existe una causa suficiente. La solicitud de prórroga del período de apelación debe presentarse al Comisionado del Departamento de Servicios Sociales por escrito dentro de un período no mayor de 90 días posteriores a la fecha de envío por correo de la decisión. El Comisionado o su delegado evaluarán las circunstancias de causa suficiente de conformidad con la sección 17b-61 de las Leyes Generales de Connecticut. La decisión de la agencia de conceder una prórroga del plazo de apelación es definitiva y no estará sujeta a revisiones ni apelaciones.

Se debe presentar la apelación ante el funcionario del Tribunal Superior del Distrito Judicial de New Britain o del Distrito Judicial en el que reside el/la Apelante.