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

[redacted] **2015**
Signature Confirmation

CLIENT No # [redacted]
Request # 738558

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2015 Connecticut Dental Health Partnership ("CTDHP") sent [redacted] (the "Appellant") a Notice of Action ("NOA") denying a request for orthodontic treatment for [redacted], her minor child, indicating that severity of child's malocclusion did not meet the medical necessity requirement.

On [redacted] 2015, the Appellant requested an administrative hearing to contest the decision to deny 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 the Appellant requested to re-schedule the administrative hearing, which was granted and re-scheduled 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], Appellant
Rosario Monteza, CTDHP Grievance Mediation Specialist
Dr. Linda Erlanger, CTDHP Dental Consultant
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the CTDHP's decision to deny the prior authorization through the Medicaid program for [redacted] [redacted]' orthodontic services is correct because such services are not medically necessary.

FINDINGS OF FACT

1. The Appellant is the mother of [redacted], the minor child. (hearing record)

2. [redacted] is 12 years old; date of birth is [redacted] 2003 is a participant in the Medicaid program as administered by the Department of Social Services. (Exhibit 1A, Prior Authorization form)

3. Connecticut Dental Health Partnership ("CTDHP") is the dental subcontractor for the Ct Department of Social Services.

4. Dr. Kirk Round of Kids Dental Care 733 Terryville Ave. Bristol, Ct. 06010 is the treating orthodontist. (Exhibit 1A, Prior Authorization form)

5. On [redacted] 2015, CTDHP received a prior authorization request for braces for [redacted] from Kids Dental Care with a score of 16 points on the Malocclusion Severity Assessment. (Exhibit #2 A, Preliminary Handicapping Malocclusion Severity Assessment form)

6. The Malocclusion Severity Assessment record is a test measuring the severity of malocclusion.

7. On [redacted] 2015, Dr. Robert Gange (orthodontic dental consultant with CTDHP) evaluated the x-rays and models of [redacted] teeth and arrived at a score of 14 on the malocclusion assessment record. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record)

8. On [redacted]2015, Dr. Gange found no evidence of irregular growth or development of the jaw bones. Noted there is no evidence of severe deviations affecting the mouth and underlying structures or evidence of emotional distress related to [redacted] teeth. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record and Exhibit 4A, Notice of Action letter)

9. On [redacted] 2015, CTDHP issued a Notice of Action to the Appellant denying orthodontic treatment as not medically necessary since [redacted] malocclusion score of 16 was less than the 26 points needed to be covered. [redacted] orthodontic request for treatment was also denied as there was no presence found of severe deviations affecting the mouth or

underlying structures, which left untreated, would cause irreversible damage to the teeth or underlying structures. There was no evidence of a diagnostic evaluation by a licensed psychiatrist or psychologist related to the condition of [redacted] teeth. (Exhibit #4A, Notice of Action)

10. On [redacted] 2015, the Appellant requested an administrative hearing. (Exhibit 5A, Hearing request)

11. On [redacted] 2015, CTDHP dental consultant, Dr. Geoffrey Drawbridge conducted an appeal review using the models and x-rays of [redacted] teeth. The Malocclusion Severity Assessment was not scored as Dr. Drawbridge did not find evidence of irregular growth or development of the jaw bones. There was no evidence of emotional issues directly related to [redacted] dental issues. Dr. Drawbridge decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut's requirement of being medically necessary. (Exhibit #7, Preliminary Handicapping Malocclusion Assessment record)

12. On [redacted] 2015, CTDHP issued a determination notice advising the Appellant that the appeal review was conducted and has recommended that CT Department of Social Services ("CTDSS') uphold the previously denied request for braces. (Exhibit #8A, Determination Letter)

CONCLUSIONS OF LAW

1. Section 17b-262 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the medical assistance program.

2. Section 17b-259b of the Ct General Statutes 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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.
(c) Upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity.

3. 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 individual's daily functioning."

4. CTDHP / Benecare was correct to deny the request for orthodontic services for [redacted] as her Malocclusion did not meet the criteria for severity, or 26 points on the Preliminary Handicapping Malocclusion Assessment Record as required.

5. CTDHP/ Benecare was correct to deny the request for orthodontic services for [redacted] as there was no evidence presented indicating she had severe deviations affecting the mouth and underlying structures and no evidence she suffered from emotional issues related to the condition of his/ her teeth.

6. CTDHP/ Benecare correctly determined the request for braces for [redacted] was not medically necessary.

DISCUSSION

CTDHP was correct to deny braces for [redacted] State regulations provide that when a child is correctly scored with at least 26 points on a "Preliminary Handicapping Malocclusion Assessment Record" the Medicaid program will authorize and pay for orthodontic treatment such as braces.

The treating orthodontist scored 16 stating that [redacted] had impacted upper canines and that she needs spaces closed in the upper anterior in order to make room for the canines and that teeth # 8 and teeth #9 were over jet. The two consultant dentists in blind reviews independently assessed the models and x-rays. Dr. Robert Gange scored 14 whereas Dr. Drawbridge did not score the malocclusion assessment but commented that based on the diagnostic information submitted, teeth #6 and #11 are crowded. The treating orthodontist and the two dental consultants agree that were no severe deviations affecting the mouth nor underlying structures. It is reasonable to conclude that [redacted] x-rays and models do not support the severity of malocclusions and dentofacial deformity.

The Appellant indicated [redacted] has no pain or infection in her mouth and has no issues with chewing or swallowing her food. The Appellant stated [redacted] speech is sometimes affected because of her overbite. The Appellant indicated braces would help with [redacted] self-esteem as [redacted] has been subjected to teasing and was called "Beaver"; however, she is not bullied in school. The Appellant testified about one incident of name calling where the Appellant spoke with the child's mother and now the children are friends again. The Appellant indicated [redacted] has no emotional issues related to the condition of her mouth nor is being treated by professional and licensed psychologist nor psychiatrist, thus does not meet the criteria of severity nor 26 points to qualify for Medicaid to pay for braces.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod
Hearing Officer

CC: Diane D'Ambrosio, CTDHP PO Box 486 Farmington, Ct 06032
Rita LaRosa , CTDHP PO Box 486 Farmington, Ct. 06032

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.