

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 # 739578

NOTICE OF DECISION

PARTY

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

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
Lynn Spinato, CTDHP Representative
Dr. Stanley Wolfe, CTDHP Dental Consultant, via telephone conference call
Maureen Foley-Roy, Hearing Officer

The hearing record remained open for the submission of additional evidence. No additional evidence was received and 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 minor child, [REDACTED] [REDACTED] whose date of birth is [REDACTED] 2003. (Hearing record and Exhibit 1: ADA 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 [REDACTED] for orthodontics (braces) for the [REDACTED] (Exhibit 1)
5. On [REDACTED] 2015, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 27 points, dental models and X-rays of [REDACTED] mouth from [REDACTED] Orthodontics. (Exhibit 2: Malocclusion Assessment Record signed [REDACTED] 2015)
6. [REDACTED] has a black spot on one of her teeth that is painful to touch. Her dentist says that it is not a cavity. The main concern with [REDACTED] teeth is the way they look; some are smaller, some are taller and other children bully her regarding her appearance. (Appellant's testimony)
7. On [REDACTED] [REDACTED] 2015, Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed all of the information submitted by the treating orthodontist and determined that [REDACTED] scored 18 points on the Malocclusion Assessment Record. (Exhibit 3: Dr. Monastersky'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] [REDACTED] 2016, Dr. Robert Gange, orthodontic consultant for BeneCare, independently reviewed [REDACTED] records and arrived at a score of

18 points on the Malocclusion Assessment Record. (Exhibit 7: Dr. Gange's Malocclusion Assessment Record)

10. [REDACTED] has been treated for [REDACTED] [REDACTED]y. She has been prescribed [REDACTED]ne and she also has a [REDACTED]. There are several issues but [REDACTED] main issue is her appearance and the bullying that she experiences. [REDACTED] also sees a [REDACTED]. (Appellant's testimony)
11. [REDACTED] [REDACTED] has caused her to miss school, drop out of school activities and her grades to drop. (Appellant's testimony)
12. On [REDACTED] 2016, 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 18 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 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 ██████ malocclusion did not meet criteria for severity, or 26 points, as established in state regulations.
 7. BeneCare correctly determined that ██████ 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 ██████ teeth.
 9. BeneCare correctly determined that ██████ medical conditions do not render braces medically necessary for her at this time as per the regulations.

DISCUSSION

The dentist testifying at the hearing stated that although [REDACTED] could benefit from orthodontia, the scoring sheets indicate that the condition of her teeth does not rise to the level that would make orthodontia medically necessary. Indeed, the Appellant testified that the biggest problem with [REDACTED] teeth is their appearance and the resulting bullying. [REDACTED] is being treated for depression and the regulations do allow for braces if evidence from a licensed psychiatrist or psychologist who specializes in the treatment of children indicates the presence of severe mental, emotional, and/or behavior problems directly related to the individual's dental condition. The hearing record was held open for two weeks but no evidence was received from either of the child's therapists. BeneCare was correct when it determined that there was no evidence that braces are medically necessary for [REDACTED]

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.