

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 # 743808

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2015, Connecticut Dental Health Partnership/Benecare Dental Plans ("Benecare") sent ██████████ (██████████) a notice of action denying a request for prior authorization of interceptive orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On ██████████ 2016, ██████████ ("the Appellant") ██████████ mother, requested an administrative hearing to contest Benecare's denial of prior authorization of orthodontia for ██████████

On ██████████ 2016, 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 Representative

Dr. Greg Johnson, Benecare Dental Consultant, participated by telephone
Thomas Monahan, Hearing Officer

The record remained open for the submission of additional evidence. On
[REDACTED] 2016, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether Benecare's denial of prior authorization through the Medicaid program for [REDACTED] interceptive orthodontic treatment as not medically necessary was in accordance with state law.

FINDINGS OF FACT

1. [REDACTED] (the "Appellant") is [REDACTED] mother. (Hearing Record)
2. [REDACTED] is eight (8) years old born on [REDACTED] 2007. (Exhibit 1: Dental Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record [REDACTED]/15)
3. [REDACTED] is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
4. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
5. Dr. [REDACTED] of [REDACTED] Orthodontics, (the "treating orthodontist") is [REDACTED] treating orthodontist. (Ex. 1: Dental Claim form)
6. On [REDACTED] 2015, the treating orthodontist requested prior authorization to complete phase one orthodontic services for [REDACTED] requesting approval for fixed appliance therapy. (Ex. 1: Dental Claim form)
7. On [REDACTED] 2015, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 26 points, electronic dental models, and x-rays. The treating dentist noted the presence of severe deviations affecting the mouth and underlying structures and commented, "large overjet, patient has thumb sucking habit, needs fixed appliance". (Ex. 2: Preliminary Malocclusion Assessment Record, [REDACTED] 15)
8. Phase one guidelines include fixed appliance therapy in order to correct habits such as tongue thrusting and thumb sucking. For correction of thumb

sucking habits, models should show evidence of open bite or severe protrusion. (Ex. 9: Email from Benecare for Phase one Guidelines, [REDACTED]/16)

9. On [REDACTED], 2015, Dr. Benson Monastersky, Benecare's orthodontic dental consultant, independently reviewed [REDACTED] models and x-rays. Dr. Monastersky found no evidence of severe deviations affecting the mouth and underlying structures. Dr. Monastersky commented that [REDACTED] "does not meet Phase One treatment guidelines". (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record [REDACTED]/15)
10. On [REDACTED], 2015, Benecare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that orthodontia treatment is not medically necessary under the factors set forth in state statute and state regulations. Specifically, the documents provided by the treating orthodontist were not complete enough to support the need for interceptive orthodontic treatment as medically necessary. There was a lack of evidence presented that [REDACTED] has the presence of a medical condition, including mental illness, in which interceptive orthodontic treatment is required to prevent, identify, diagnose, treat, rehabilitate or ameliorate this condition. (Exhibit 4: Notice of Action for Denied Services or Goods [REDACTED]/15)
11. On [REDACTED] 2016, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
12. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, a Benecare dental consultant, independently reviewed [REDACTED] models and x-rays and arrived at a score of 16 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge commented, "Does not meet criteria for D8220" (fixed appliance therapy). Dr. Drawbridge found no evidence of severe deviations affecting the mouth and underlying structures. (Exhibit 7: Preliminary Handicapping Malocclusion Assessment Record [REDACTED]/15)
13. On [REDACTED] 2016, Benecare notified the Appellant that the request for orthodontic services was denied because there was a lack of evidence of the presence of severe deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of [REDACTED] teeth. (Exhibit 8: Letter Regarding Orthodontic Services [REDACTED]/16)
14. [REDACTED] is being treated by a [REDACTED] at the [REDACTED]. Her Primary diagnosis is [REDACTED]. Her other diagnosis's include: [REDACTED] disorder. (Appellant's Testimony, Appellant's Ex. A: Medical records)

15. [REDACTED] current medications are [REDACTED]. (Appellant's Ex. A: Medical records)
16. When [REDACTED] is anxious or tired she sucks her thumb. (Appellant's testimony)
17. On [REDACTED] 2016, Dr. Benson Monastersky reviewed [REDACTED] psychiatric medical records. Dr. Monastersky commented that there isn't any reference to a tooth problem causing any of her psychiatric problems in the medical records. (Ex. 10: Dr. Monasterkys Post hearing comments, [REDACTED]/16)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is the designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262].
3. State regulations provide that orthodontic services 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. State statute 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. [Conn. Gen. Stat. § 17b-259b]

5. State statutes provide that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. [Conn. Gen. Stat. § 17b-259b(b)]
6. Public Act 15-5 (June Special 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.”
7. The study models submitted by the treating orthodontist do not clearly support the presence of severe deviations affecting the mouth or underlying structures as required by state regulations for the authorization of interceptive orthodontia treatment.
8. The Medical records from [REDACTED] psychiatrist do not support that fixed appliance therapy would rehabilitate or ameliorate [REDACTED] mental health condition.
9. Benecare correctly determined that [REDACTED] malocclusion did not meet the criteria for severity as established in state regulations and that there was no presence of severe deviations affecting the mouth and underlying structures.
10. Benecare correctly determined the [REDACTED] does not have mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to the condition of her teeth.
11. Benecare correctly denied the prior authorization request because [REDACTED] condition does not meet the medical necessity criteria for interceptive orthodontic services in accordance with state statutes and regulations.

DECISION

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

Thomas Monahan
Thomas Monahan
Hearing Officer

Pc: Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita LaRosa, CTDHP, P.O. 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 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.