

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 # 744378

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment for ██████████, her minor child, indicating that the severity of ██████████ malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

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
██████████, Appellant’s spouse
Rosario Monteza, BeneCare’s representative
Dr. Vincent Fazzino, BeneCare’s Dental Consultant, via telephone
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services as not medically necessary was in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED]. (Hearing Record)
2. [REDACTED] is 8 years old (D.O.B. [REDACTED]/07) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Dr. Edward Cos, DMD, is [REDACTED] treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED] 2015, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for [REDACTED] (Hearing Summary, Ex. 1: Claim Form)
6. On [REDACTED] 2015, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 12 points, dental models and panoramic x-ray films of [REDACTED] mouth. The treating orthodontist commented that [REDACTED] has anterior and posterior crossbites causing functional shift and recession, #24 and #25 labially (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED] 16)
7. On [REDACTED] 2015, Dr. Robert Gange, DDS, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 11 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Gange found no evidence of severe irregular placement of [REDACTED] teeth within the dental arches and no irregular growth or development of the jawbones. (Hearing Summary, Ex. 3: Preliminary Handicapping Malocclusion Assessment Record)
8. On [REDACTED] 2015, BeneCare denied the treating orthodontist's request for prior authorization for interceptive orthodontic treatment for the reason that there is no evidence that such treatment is medically necessary. (Ex. 4: Notice of Action for Denied Services, [REDACTED]/15)
9. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, D.M.D., BeneCare's orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic

radiographs and arrived at a score of 10 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge found no evidence of severe irregular placement of [REDACTED] teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Drawbridge commented gingival tissue #24 and #25 within normal, does not qualify for interceptive D8020. (Hearing Summary, Ex. 7: Preliminary Handicapping Malocclusion Assessment Record)

10. On [REDACTED] [REDACTED] 2016, BeneCare notified the Appellant that interceptive orthodontic treatment is not medically necessary for [REDACTED] (Ex. 8: Letter regarding Interceptive Orthodontic Services, [REDACTED]/16)
11. The treating orthodontist is proposing interceptive treatment for [REDACTED] because she has an anterior and posterior crossbite. (Ex. 2)
12. In order for treatment of crossbite with interceptive orthodontic treatment to be considered medically necessary, the condition would have to be causing both a functional deviation and gingival recession. (Dr. Fazzino's testimony)
13. Neither Dr. Gange nor Dr. Drawbridge sees any evidence that [REDACTED] has a functional deviation and gingival recession as a result of her crossbite. (Dr. Fazzino's testimony)
14. [REDACTED] has some problems chewing hard food. (Appellant's testimony)
15. [REDACTED] does not have any problems swallowing food. (Appellant's testimony)
16. [REDACTED] has some pain while chewing hard food. (Appellant's testimony)
17. [REDACTED] does not have any infection of the mouth. (Appellant's testimony)
18. [REDACTED] does not receive counseling and is not being treated by a qualified psychiatrist or psychologist for related mental, emotional or behavioral problems, disturbances or dysfunctions. (Appellant testimony)

CONCLUSIONS OF LAW


1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. Connecticut Agencies Regulations §17-134d-35(a) provide that orthodontic 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.

3. Connecticut General Statutes §17b-259b 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.
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 Salzman 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 Salzman 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."
6. Connecticut Agencies Regulations §17-134d-35(f) 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.
7. In ██████ case, study models submitted for prior authorization do not show severe deviations affecting the mouth and underlying structures; and do not meet the requirement of a 26 point score on the preliminary assessment.

8. In [REDACTED] case, there is no indication that mental, emotional, and/or behavior problems, disturbances or dysfunctions exist which should be considered in determining whether orthodontia is medically necessary.
9. The Department was correct to find that [REDACTED] malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations, and was correct to find that there were no other severe deviations affecting the mouth which would make interceptive orthodontic treatment medically necessary.
10. BeneCare was correct to deny prior authorization because [REDACTED] does not meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statute and regulations.

DECISION

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


Scott Zuckerman
Hearing Officer

cc: Diane D'Ambrosio, Connecticut Dental Health Partnership
Rita LaRosa, Connecticut Dental Health Partnership

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.