

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 # 752103

NOTICE OF DECISION  
PARTY

For: ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, BeneCare Dental Plans ("BeneCare") sent ██████████ (the "Appellant") a notice of action denying a request for prior authorization of orthodontia for ██████████, stating that the severity of ██████████ malocclusion did not meet the requirements in state law to approve the proposed treatment, and that orthodontia was not medically necessary.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department'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:

██████████ the Appellant  
Kate Nadeau, BeneCare's Representative  
Magdalena Carter, BeneCare's Representative  
Kelly Alencastro, Interpreter, ITI Translations  
Dr. Linda Earlander, DMD, BeneCare Dental Consultant, by phone  
Christopher Turner, Hearing Officer

The Hearing record was left open for the submission and review of additional medical information. On [REDACTED] 2016, the record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization for [REDACTED] orthodontic services for lack of medical necessity is correct and in accordance with state law.

**POR FAVOR VEA LA COPIA INCLUIDA DE ESTA DECISIÓN EN ESPAÑOL.  
PLEASE SEE THE ENCLOSED COPY OF THIS DECISION IN SPANISH.**

### **FINDINGS OF FACT**

1. The Appellant is the father of the minor child, [REDACTED] (Hearing record)
2. [REDACTED] (D.O.B. [REDACTED]/2005) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record; Appellant's testimony)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing record)
4. Danbury Orthodontics is [REDACTED] treating provider ("treating provider"). (Exhibit 1: Orthodontia Services Claim Form; Hearing summary)
5. [REDACTED] has suffered from Aphthous ulcers in her mouth since birth. [REDACTED] is being treated with a topical steroid paste. Aphthous ulcers are commonly known as canker sores. (Appellant's Exhibit A: Letter from Pediatric Health Center of Danbury)
6. On [REDACTED] 2016, BeneCare received from the treating provider, a Preliminary Handicapping Malocclusion Assessment Record with a score of 35 points. Models and x-rays of [REDACTED] mouth were used for the evaluation. (Exhibit 2: Malocclusion Assessment Record, [REDACTED]/16)
7. On [REDACTED] 2016, Dr. Benson Monastersky, D.M.D., BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] X-rays, and models of her teeth, and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky found no evidence of severe irregular placement of [REDACTED] teeth within the dental arches and found no irregular growth or development of the jaw. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16)

8. On [REDACTED] 2016, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of [REDACTED] mouth was less than the 26 points needed for coverage, [REDACTED] teeth are not crooked enough to qualify for braces, and they currently pose no threat to the jawbone or the attached soft issue. Also, there was no evidence that a diagnostic evaluation has been done by a licensed child psychologist or a licensed child psychiatrist indicating that [REDACTED] dental condition is related to the presence of severe mental emotional and/or behavioral problems, disturbances or dysfunctions, as defined in the current edition of the Diagnostic Statistical Manual and orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (Exhibit 4A: Notice of Action for Denied Services or Goods, [REDACTED]/16)
9. On [REDACTED] 2016, a Dental Consultant for BeneCare, Dr. Vincent Fazzino conducted a review. He used the models and X-rays of [REDACTED] teeth. The Malocclusion Severity Assessment scored 21 points. Dr. Fazzino did not find evidence of severe irregular placement of her teeth within the dental arches or irregular growth or development of the jawbones. There was no evidence presented stating the presence of emotional issues directly related to [REDACTED] dental situation. Dr. Fazzino denied approval of payment for this case because it did not meet the State of Connecticut's requirements for being medically necessary. (Exhibit 7: Dr. Fazzino's Assessment, [REDACTED]/16)
10. On [REDACTED] 2016, BeneCare notified the Appellant that [REDACTED] score of 18 points did not meet the requirements for orthodontic treatment and that such treatment was not medically necessary. (Exhibit 8A: Letter regarding Orthodontic Services, [REDACTED]/16)
11. On [REDACTED] 2016, a Dental Consultant for BeneCare, Dr. Benson Monastersky evaluated the Appellant's medical statement from Pediatric Health Center. Dr. Monastersky concluded the presence of Aphthous ulcers in [REDACTED] mouth were not caused by her malocclusion since the ulcers have been present since birth. (Exhibit 10: Dr. Monastersky's evaluation, [REDACTED]/16)

### **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 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.

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 16-5 (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."
5. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.
6. In the Appellant's case, the study models submitted for prior authorization do not show occlusal deviations and do not meet the requirement of a 26-point score on a preliminary assessment.
7. BeneCare was correct to find that [REDACTED] malocclusion did not meet the requirements for severity as established in state regulations.
8. BeneCare was correct to deny prior authorization because orthodontia services for [REDACTED] are not medically necessary.

**DECISION**

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

  
Christopher Turner  
Hearing Officer

Cc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486  
Farmington, CT 06032

### **RIGHT TO REQUEST RECONSIDERATION**

The appellant has the right to file a written reconsideration request within **16** days of the mailing date of the decision on the grounds there was an error of fact, law, and 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 06105-3725.

### **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, if 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 06105-3725. 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.