

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 # 754266

NOTICE OF DECISION

PARTY

██████████  
C/O: ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, BeneCare Dental Plans (“BeneCare”) sent ██████████ ██████████ (the “Appellant”), who is the legal guardian of ██████████, her minor niece, a notice of action (“NOA”) denying a request for prior authorization of orthodontic treatment for ██████████ 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 for orthodontic treatment.

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  
Karina Reininger, BeneCare’s representative  
Dr. Greg Johnson, BeneCare’s Dental Consultant, via telephone  
James Hinckley, Hearing Officer

On ██████████ 2016, the hearing record was reopened for BeneCare to respond to written questions from the hearing officer. On ██████████ 2016, the hearing record closed.

## STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for ██████ requested orthodontic services as not medically necessary was in accordance with state statute and regulations.

## FINDINGS OF FACT

1. The Appellant is the maternal aunt and legal guardian of the minor child, ██████ (Hearing Record)
2. ██████ is 16 years old (D.O.B. ██████/2000) 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. ██████ Pediatric Dentistry is ██████ treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. Approximately three years ago, ██████ had her upper baby (or "primary" or "deciduous") canine teeth extracted; the teeth were extracted in order to facilitate the eruption of ██████ adult canine teeth. (Hearing record, Appellant testimony)
6. ██████ maxillary (upper) adult canine teeth still have not erupted. (Hearing record, Appellant testimony)
7. On ██████ 2016, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for ██████ (Summary, Ex. 1)
8. On ██████ 2016, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 2 points, dental models and panoramic x-ray films of ██████ mouth. The treating orthodontist commented, "Impacted maxillary 3's. C's were extracted 3 years ago". (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record)
9. In a lesser used dental nomenclature, the letter "C" refers to a baby canine tooth, and the number "3" refers to an adult canine tooth, but in the more commonly used Universal Numbering System, the maxillary canines are designated as teeth #6 and #11. (Dr. Johnson's testimony)
10. If either the upper or lower canine teeth are impacted, the condition is considered to be a handicapping malocclusion and may result in approval of orthodontic

treatment when the score on the *Preliminary Handicapping Malocclusion Assessment Record* is less than 26 points. (Ex. 12: Dr. Drawbridge's written comments of explanation)

11. On [REDACTED] 2016, Vincent Fazzino, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] dental models and panoramic radiographs, and scored 6 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Fazzino noted that there was no presence of severe deviations affecting [REDACTED] mouth and underlying structures and commented "Resubmit with additional panorex in 6 to 9 months". (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record)
12. On [REDACTED] 2016, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services because: the scoring of [REDACTED] mouth was less than the 26 points required for coverage, and there was no additional substantial information about either: the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures; or, evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)
13. On [REDACTED] 2016, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
14. On [REDACTED] 2016, Geoffrey Drawbridge, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review; he evaluated [REDACTED] dental models and panoramic radiographs and arrived at a score of 6 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge noted that [REDACTED] had no presence of severe deviations affecting her mouth and underlying structures and commented, "Based on diagnostic information provided, #6 and #11 are in a position to erupt, delay potentially due to (-) arch length. #6 and #11 not impacted". (Ex. 7: Preliminary Handicapping Malocclusion Assessment Record)
15. On [REDACTED] 2016, BeneCare notified the Appellant of the outcome of the appeal review; the second review by BeneCare affirmed the original determination that orthodontic treatment is not medically necessary for [REDACTED] (Ex. 8: Appeal Review Decision Letter)
16. Teeth are impacted when they are expected to never be able to erupt, because they have no viable eruptive path. (Ex. 12)

17. Teeth that have not erupted because they are crowded have an eruptive path that is impeded, but the teeth still have the potential for normal eruption. (Ex. 12)
18. Eventual eruption may be considerably delayed even with extraction of a retained deciduous canine. (Ex. 12)
19. Panoramic radiographs can show whether a tooth is inclined in such a way that its eruptive path is toward an adjacent tooth or teeth, or whether its path is beyond the roots of any adjacent teeth. (Ex. 12)
20. A properly made diagnostic model of the teeth will typically demonstrate a palpable enlargement of the labial plate associated with the position of a crowded tooth that is positioned to erupt. (Ex. 12)
21. ██████ upper canine teeth are in an acceptable position to erupt on their own. (Ex. 11: Dr. Fazzino's written comments of explanation, Ex. 3, Ex. 7)
22. Delaying treatment for ██████ will not result in any additional risks for eruption regarding her teeth # 6 and #11. (Ex. 11)
23. A new panoramic radiograph taken six to nine months from now will help to confirm whether the eruption of teeth #6 and #11 is progressing, or whether the situation has not improved. (Ex. 11)
24. ██████ is bothered by the appearance of her missing canine teeth. (Appellant testimony)
25. ██████ sees a therapist to help her deal with past traumatic experiences in her life, as well as other issues. (Appellant testimony)
26. ██████ therapist is not a psychiatrist or psychologist, and ██████ has never been diagnosed by a psychiatrist or psychologist with any mental disorder classified in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (the "DSM") that is directly related to the condition of her teeth. (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) provides 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. 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.
5. Public Act 15-5 (June Sp. Session, section 390) provides that 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. ██████████ study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment.
8. BeneCare was correct to find that ██████████ malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.

9. [REDACTED] study models and panoramic radiographs submitted for prior authorization did not show severe deviations affecting the oral facial structures; [REDACTED] teeth #6 and #11 are not impacted, because they are in a position to erupt normally.
10. [REDACTED] has not been diagnosed by a child psychologist or child psychiatrist with a severe condition defined in the DSM which would be significantly helped by orthodontic treatment.
10. BeneCare was correct to find that there is no substantive information regarding the presence of severe deviations affecting the oral facial structures, or regarding the presence of severe mental, emotional or behavioral problems or disturbances, which must be considered in determining the need for orthodontic services for [REDACTED]
11. BeneCare was correct to deny prior authorization because [REDACTED] did not meet the medical necessity criteria for orthodontic services, in accordance with state statute and regulations.

### DISCUSSION

Orthodontic treatment is not approved for cosmetic reasons. While missing canine teeth may present an aesthetic issue, it is not the reason approval of orthodontia is being considered for [REDACTED]. The reason is that the canines are important, cornerstone teeth in the mouth, and the condition of having impacted canines is considered to be a handicapping malocclusion.

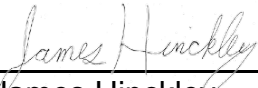
There is a distinction, explained in Dr. Drawbridge's written comments, between an impacted tooth, whose eruptive path is blocked in such a way that it would not be expected to ever erupt, and a crowded tooth, which still has the potential to erupt normally, even though its eruptive path is impeded. In making the determination of whether a tooth is impacted or crowded, the evaluator must examine diagnostic records such as panoramic radiographs and study models of the teeth and mouth; the position of a tooth and its inclination can be seen in the panoramic radiographs, and a palpable enlargement will typically be present on the study models in the location where a crowded tooth is positioned so that it might be able to erupt.

After examining [REDACTED] panoramic radiographs and study models, it was the impression of both Dr. Fazzino and Dr. Drawbridge that [REDACTED] canines were in a position to erupt and were not impacted.

Dr. Fazzino recommended on his evaluation that the Appellant resubmit a request for approval for [REDACTED] in six to nine months with an updated panorex (panoramic radiograph). Approval for orthodontic treatment may be reconsidered at that time, when a determination of how the eruption process is progressing can be made.

**DECISION**

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

  
\_\_\_\_\_  
James Hinckley  
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.