

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 # 757545

NOTICE OF DECISION

PARTY

██████████
c/o ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment, indicating that the severity of her malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

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

On ██████████ 2016, the 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’s mother and representative
Magdalena Carter, Grievance and Appeals Specialist, CTDHP’s representative
Dr. Jonathan Gorman, Dental Consultant, CTDHP’s representative
Roberta Gould, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for the Appellant's orthodontic services was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is 12 years old (D.O.B. [REDACTED]/2004) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
2. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
3. [REDACTED] [REDACTED] [REDACTED] is [REDACTED] treating orthodontist (the "treating orthodontist"). (Exhibit 1: Prior Authorization Dental Claim Form and Hearing summary)
4. On [REDACTED] 2016, the treating orthodontist requested prior authorization to complete Interceptive Orthodontic treatment for [REDACTED] (Exhibit 1 and Hearing summary)
5. On [REDACTED] [REDACTED] 2016, CTDHP received from the treating orthodontist a Preliminary Malocclusion Assessment Record with a score of 8 points. The request also included models and x-rays of the Appellant's teeth and underlying structures. (Exhibit 2: Preliminary Malocclusion Assessment record and Hearing Summary)
6. The proposed treatment for [REDACTED] is Phase I Interceptive Orthodontic treatment to correct her anterior cross bite. The treating orthodontist recommended that the Appellant have an expander to allow her upper jaw to more fully develop. (Exhibit 1, Exhibit 2 and Dr. Gorman's testimony)
7. On [REDACTED] 2016, Dr. Vincent Fazzino, D.M.D., CTDHP's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic x-rays of her teeth, and arrived at a score of 12 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no evidence of severe irregular placement of [REDACTED] teeth within the dental arches and no irregular growth or development of the jawbones. There was no evidence of emotional issues directly related to her mouth. Dr. Fazzino commented that the Appellant's orthodontic models do not support an anterior cross bite. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record and Hearing summary)

8. On [REDACTED] 2016, CTDHP sent a Notice of Action letter to the Appellant explaining that she did not qualify for Interceptive Orthodontic services because it was not medically necessary. (Exhibit 4: Notice of Action for Denied Services and Hearing summary)
9. On [REDACTED] 2016, the Department received the Appellant's representative's request for an administrative hearing. (Exhibit 5: Appeal and Administrative Hearing request form)
10. On [REDACTED] 2016, Dr. Robert Gange, D.D.S., CTDHP's orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic x-rays. Dr. Gange found no evidence of severe irregular placement of the Appellant's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Gange commented he found "no evidence of a Class III anterior cross bite exhibited on models and models trimmed to Class II occlusion". (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record and Hearing Summary)
11. On [REDACTED] 2016, CTDHP notified the Appellant's representative that an appeal review has determined that Interceptive Orthodontic treatment is not medically necessary for [REDACTED] (Exhibit 7: Appeal Review Letter and Hearing summary)
12. There was no evidence presented that [REDACTED] has received treatment by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to her teeth or mouth. (Hearing record)

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. Section 17b-282e of the Supplement to the Connecticut General Statutes provides that 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 structure; 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) 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. Her dental cross bite is not severe enough to qualify for Interceptive Orthodontic treatment.
8. In the Appellant's case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that she receive orthodontic treatment to significantly ameliorate her mental, emotional, and or behavior problems, disturbances or dysfunctions.
9. CTDHP was correct to find that ██████ malocclusion is not severe enough to qualify for Medicaid payment for Interceptive Orthodontic treatment and was correct to find that there were no other severe deviations affecting the mouth which would make interceptive orthodontic treatment medically necessary.
10. The Appellant's representative failed to provide evidence to establish that ██████ suffers from the presence of severe mental, emotional and/or behavioral

problems, disturbances, or dysfunctions caused by her dental issues.

11. CTDHP 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.

DISCUSSION

State regulations provide that the Medicaid program will authorize and pay for orthodontic treatment when it is found to be medically necessary. In [REDACTED] case, her treating orthodontist is proposing Interceptive Orthodontic treatment to correct an anterior cross bite with phase one treatment. Two dentists in blind reviews independently assessed her x-rays and models of her teeth and found that they did not support an anterior cross bite that was severe enough to qualify for treatment. A licensed psychiatrist or licensed psychologist has not recommended that [REDACTED] receive orthodontic treatment to significantly ameliorate her mental, emotional, and or behavior problems, disturbances or dysfunctions. There is no evidence that Interceptive Orthodontic treatment is medically necessary to treat the Appellant's condition.

The undersigned hearing officer finds that there is no evidence that Interceptive Orthodontic treatment is medically necessary to treat the Appellant's condition, as established in state regulations.

DECISION

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



Roberta Gould
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.