

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 # 759420

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2016, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of payment for orthodontia for his son, ██████████. The notice of action informed the Appellant that orthodontia was not medically necessary for ██████████ as the severity of his malocclusion did not meet the requirements set out in state statute and regulations for medical necessity.

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

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an 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 by telephone conference call.

The following individuals participated in the hearing:

██████████ Appellant  
Rosario Monteza, CTDHP Representative  
Dr. Greg Johnson, Orthodontic Consultant-State of CT

Pamela J. Gonzalez, Hearing Officer

The hearing record was held open to allow CTDHP to review the models, x-rays, and assessments of [REDACTED] teeth a third time, and to allow the Appellant to comment on the resulting assessment.

The hearing record closed on [REDACTED] 2016

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP's denial of prior authorization of payment for [REDACTED] orthodontic services was correct in accordance with state statute and regulations.

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] father. (Hearing Record)
2. [REDACTED] (D.O.B. [REDACTED]/00) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. BeneCare is the Administrative Service Organization managing the Connecticut Dental Health Partnership for the State of Connecticut. (Hearing record)
5. Dr. Jeffrey Drayer is [REDACTED] treating orthodontist (the "treating orthodontist"). (Orthodontia Services Claim Form – CTDHP's exhibit 1)
6. On [REDACTED] 2016, the treating orthodontist requested prior authorization for payment for orthodontic services for [REDACTED] (CTDHP's exhibit 1)
7. Dr. Drayer submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 25 points, dental models and x-rays of [REDACTED] mouth. The treating orthodontist found no presence of severe deviations affecting the mouth and underlying structures. Dr. Drayer remarked on the claim form "CLASS 1. U/L SPACE DEFICIENCY. UOJ/OB. LR5 BLOCKED. BRACES U/L. TOTAL ACTIVE TX 24 MONTHS. TOTAL FEE \$6350.00". (CTDHP's exhibit 1, Malocclusion Assessment Record dated [REDACTED] 2016 – CTDHP's exhibit 2)

8. On [REDACTED] 2016, Dr. Robert Gange, CTDHP's orthodontic dental consultant, independently reviewed [REDACTED] models and x-rays, and arrived at a score of 23 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange found no presence of severe deviations affecting the mouth and underlying structures. (Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16 – CTDHP's exhibit 3)
9. On [REDACTED] 2016, CTDHP denied the treating orthodontist's request for prior authorization of orthodontic services as not medically necessary. [REDACTED] teeth scored less than the 26 points needed for coverage, his teeth are not crooked enough to qualify for braces and they currently pose no threat to the jawbone or the attached soft issue. (Notice of Action for Denied Services or Goods, [REDACTED]/16 – CTDHP's exhibit 4)
10. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, CTDHP's dental consultant, independently reviewed [REDACTED] models and x-rays and arrived at a score of 24 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. (Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16 – CTDHP's exhibit 6)
11. On [REDACTED] 2016, CTDHP notified the Appellant that orthodontic treatment was not medically necessary. (Notice upholding the previously denied services dated [REDACTED] 2016 – CTDHP's exhibit 7)
12. On [REDACTED] [REDACTED] 2016, Dr. Vincent Fazzino, CTDHP's dental consultant independently conducted a third review of the information submitted pertaining to [REDACTED] teeth/mouth. Dr. Fazzino arrived at a score of 24 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the mouth and underlying structures. Prior authorization for payment of orthodontic treatment was not approved. (Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16 – CTDHP's exhibit 9)
13. The evidence in the record does not indicate the presence of severe deviations affecting [REDACTED] mouth and its underlying structures. (CTDHP's exhibit's 2, 3, 6, 9, Hearing record)
14. No additional evidence from the treating orthodontist was presented at this hearing. (Hearing record)
15. There is no evidence in the record that [REDACTED] is being treated by a licensed child psychiatrist or child psychologist for issues related to the condition of his teeth. (Hearing record)

### **CONCLUSIONS OF LAW**

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
2. State regulations 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. Conn. Gen. Stat. § 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. Sec. 17b-282e of the Supplement to the General Statutes 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. State regulations 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. [Conn. Agencies Regs. §17-134d-35(f)]
  6. In this case, the study models submitted for prior authorization do not show occlusal deviations that meet the requirement of a 26 point score on the preliminary assessment, nor is there evidence about the presence of other severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth and underlying structures.
  7. In this case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that ██████ receive orthodontic treatment to significantly ameliorate mental, emotional, and or behavior problems, disturbances or dysfunctions.
  8. CTDHP correctly denied the request for prior authorization because ██████ malocclusion does not meet the medical necessity requirements for orthodontic services, in accordance with state statutes and regulations.

### **DISCUSSION**

State regulations allow the Medicaid program to authorize and pay for orthodontic treatment when a correctly scored Preliminary Handicapping Malocclusion Assessment results in at least 26 points. In this case, the treating orthodontist scored 25 points and two dentists in blind reviews gave ██████ scores of 23 and 24 points.

██████ does not meet the magnitude criterion which requires a point score of at least twenty-six on a correctly scored Preliminary Handicapping Malocclusion Assessment. In addition, the study models and x-rays submitted do not provide evidence of a severe condition affecting ██████ mouth which, if left untreated, would cause irreversible damage to the teeth and underlying structures.

**DECISION**

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

*Pamela J. Gonzalez*  
Pamela J. Gonzalez  
Hearing Officer

Copy: Rosario Monteza, CTDHP, P.O. Box 486 Farmington, CT 06032  
Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032  
Rita Larose, 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 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.