

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 # 762276

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, Connecticut Dental Health Partnership/Benecare Dental Plans (“Benecare”) sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization for a lower partial denture, indicating that the prosthetic is not medically necessary under state law.

On ██████████ 2016, the Appellant requested an administrative hearing to contest Benecare’s denial of a prior authorization request for a lower partial denture.

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 father
Magdalena Carter, BeneCare’s Representative
Dr. Gary Rappaport, Benecare’s Dental Consultant by phone
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether Benecare's denial of prior authorization through the Medicaid program for a lower partial denture was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Summary)
2. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of partial or full dentures. (Hearing Record)
3. Dr. Dental of East Haven is the Appellant's treating dentist ("the treating dentist"). (Hearing Summary & Exhibit 1: Dental Claim Form)
4. On [REDACTED] 2016, Benecare received a prior authorization request from the Appellant's treating dentist requesting approval of Medicaid coverage for an upper partial denture and a lower partial denture. (Hearing Summary, Ex. 1: Dental Claim Form)
5. Benecare approved the upper partial denture. (Hearing Summary)
6. On [REDACTED] 2016, Benecare denied the prior authorization request for approval of payment for a lower partial denture. The reason stated was that you have or will have at least eight back natural or replaced teeth and that there is no evidence that any front teeth are missing. There was no evidence provided by the treating dentist to meet medically necessary criteria set forth by the Department. (Ex: 2: Notice of Action, [REDACTED]/16)
7. On [REDACTED] 2016, Benecare completed an administrative review of the Appellant's records that were provided. Benecare determined that there are or will be at least eight natural or replaced teeth in occlusion and there are no anterior teeth in the arch that are missing or need to be treated. There was no evidence presented by a physician stating that this dental treatment is medically necessary. (Ex: 4: Dental Consultant Grievance Review Record)
8. On [REDACTED] 2016, Benecare notified the Appellant that the request for approval of a lower partial denture was not medically necessary and that the Department considers coverage in cases where the client is missing front teeth or less than 8 back teeth in occlusion. (Ex. 7: Letter regarding request for approval of lower partial dentures, [REDACTED]/16)

9. With the approval of the upper partial denture there will be at least eight (8) posterior (back) teeth coming together and no missing anterior (front) teeth. (Dr. Rappaport's testimony)
10. There is no medical evidence on the record to support a finding that replacement of a lower partial denture is medically necessary for the Appellant. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262].
3. State Regulation provides that "denture" or "denture prosthesis" means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth. [Conn. Agencies Regs. § 17b-262-863(6)].
4. Section 184B(VI) of the Medical Services Policy provides that dentures means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.
5. State statute 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. [Conn. Gen. Stat. § 17b-259b].

6. State statute provides that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. [Conn. Gen. Stat. § 17b-259b(b)].
7. State statute provides that upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. [Conn. Gen. Stat. § 17b-259b(c)].
8. Section 184 of the Medical Services Policy provides that for the purposes of this section, dental services are diagnostic, preventive, or restorative procedures, performed by a licensed dentist in a private or group practice or in a clinic; a dental hygienist, trained dental assistance or, or other dental professionals employed by the dentist, group practice or clinic, providing such services are performed within the scope of their profession in accordance with State law. These services relate to:
 - I. The teeth and other structures of the oral cavity; and
 - II. Disease, injury, or impairment of general health only as it relates to the oral health of the recipient.
9. Section 184D of the Medical Services Policy provides that payment for Dental Services is available for all persons eligible for Medicaid, subject to the conditions and limitations, which apply to these services.
10. Section 184E of the Medical Services Policy provides that except for the limitations and exclusions listed below, the Department will pay for the professional services of a licensed dentist or dental hygienist which conform to accepted methods of diagnosis and treatment, but will not pay for anything of an unproven, experimental or research nature or for services in excess of those deemed medically necessary by the Department to treat the recipient's diagnosis, symptoms or medical history.
11. State statute provides that, with regard to modifications to the extent of non-emergency dental services provided under the Medicaid program, the commissioner may implement policies and procedures necessary to

administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner prints notice of intent to adopt regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Such policies and procedures shall remain valid for three years following the date of publication in the Connecticut Law journal unless otherwise provided for by the general Assembly. [Conn. Gen. Stat. § 17b-282d].


12. State Regulation provides that sections 17b-262-862 to 17b-262-866, inclusive, of the Regulations of Connecticut State Agencies set forth limitation on the extent of non-emergency dental services provided to adults twenty-one years of age and older who receive services under the Connecticut Medicaid program. Such limitations include coverage limits, prior authorization requirements and services that are not covered under Medicaid. These regulations supplement but do not supplant Department Medical Services Policies for dental services, including but not limited to, provider participation, eligibility, coverage limitations, billing procedures and payment, to the extent that such policies have the force of law pursuant to section 17b-10 of the Connecticut General Statutes. [Conn. Agencies Regs. 17b-262-862]
13. State regulation provides that the limitations on coverage of certain non-emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all adults twenty-one years of age and older and are subject to the prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies. [Conn. Agencies Regs. 17b-262-864]
14. State regulations provides that coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows: Prosthodontics:
 - A. Coverage of complete and removable partial dentures for functional purposes when there are fewer than 8 posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.
 - B. Coverage of removable partial dentures when there are more than 8 posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies;
 - C. One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis

is acceptable and that he or she understands the department's replacement policy as described in subsection (d) of this section; and

- D. Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse or negligence. [Conn. Agencies Regs. 17b-262-864(b)(2)]
15. Benecare correctly determined that the Appellant's condition does not meet the criteria for Medicaid coverage for a lower partial denture because the Appellant has 8 posterior teeth in occlusion and has no missing anterior teeth.
16. Benecare correctly determined that the Appellant's condition does not meet the criteria for severity as established in state regulations because there is no medical evidence to support medical necessity.
17. Benecare correctly determined that the Appellant's condition does not meet the criteria to authorize payment for lower partial dentures because there is no medical evidence that the absence of lower partial dentures would jeopardize his medical health. Approval of lower partial dentures has not been shown to be medically necessary or to meet the medical necessity care condition criteria.
18. Benecare was correct to deny prior authorization because the Appellant does not meet the medical necessity criteria for approval of a lower partial denture, in accordance with state statutes and regulations.

DECISION

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


Scott Zuckerman
Hearing Officer

PC: 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 Administrative Hearings and Appeals, 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, 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 the Commissioner's 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.

