

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 # 762666

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2016, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment for ██████████ her minor child, 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 to complete 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, 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
Kate Nadeau, BeneCare’s representative
Dr. Vincent Fazzino, BeneCare’s Dental Consultant, via telephone
James Hinckley, Hearing Officer

The hearing record was held open until ██████████ 2016 for the Appellant to submit additional evidence. No additional evidence was received, and on ██████████ 2016, the hearing record closed.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, ██████ (Hearing Record)
2. ██████ is 8 years old (D.O.B. ██████/2008) 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. Trumbull Orthodontics is ██████ treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On ██████ 2016, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for ██████ (Summary, Ex. 1)
6. ██████ is in mixed dentition; she has both baby teeth and permanent teeth present in her mouth. (Ex. 1, Hearing Record)
7. On ██████ 2016, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* for ██████ with a score of less than 26 points. Included were dental models, panoramic x-ray films, and photographs of ██████ mouth. The assessment indicated that the request for interceptive orthodontic treatment was based on the presence of severe deviations affecting ██████ mouth and underlying structures, namely that her teeth #26 and #27 were impacted. (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record completed by Treating Orthodontist)
8. On ██████ 2016, Vincent Fazzino, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed the dental records provided by ██████ treating orthodontist and concluded on the *Preliminary Handicapping Malocclusion Assessment Record* that ██████ did not have any severe deviations affecting her mouth and underlying structures. Dr. Fazzino commented on the assessment, "Teeth #26 and #27 are not impacted. Please re-evaluate case in 9-12 months". (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Fazzino)

9. On ██████ 2016, BeneCare denied the treating orthodontist's request for prior authorization to complete interceptive orthodontic treatment for the reason that there is no evidence that such treatment is medically necessary for ██████ (Ex. 4: Notice of Action for Denied Services)
10. On ██████ 2016, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
11. On ██████ 2016, Geoffrey Drawbridge, D.M.D., another BeneCare orthodontic dental consultant, conducted an appeal review of ██████ models and panoramic radiographs and concluded that she did not have any severe deviations affecting her mouth and underlying structures. Dr. Drawbridge commented on the *Preliminary Handicapping Malocclusion Assessment*, "No impactions observed on records submitted. Path of eruption within normal with decreased arch length – re-evaluate with dental development. (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Drawbridge)
12. On ██████ 2016, BeneCare notified the Appellant that its appeal review affirmed the original decision that interceptive orthodontic treatment is not medically necessary for ██████ because there is no presence of severe deviations affecting her mouth and underlying structures, and no evidence that ██████ has been treated by a licensed psychiatrist or psychologist for any mental health condition related to the condition of her teeth. (Ex. 7: Appeal Review Decision Letter)
13. It has been six months since ██████ lost two baby teeth, and the adult teeth have not started coming in yet. (Appellant's testimony)
14. Every child's dentition develops differently, and the course of dental development may vary significantly from child to child. A six month delay in the eruption of adult teeth after the loss of baby teeth is not highly unusual or out of the normal range for an eight year old child. (Dr. Fazzino's testimony)
15. A tooth is only impacted if it has no viable eruption path and is completely blocked from erupting; ██████ does not have fully mature dentition, and if the projected paths of eruption of her teeth #26 and #27 are within normal, eruption may continue to proceed with her dental development. (Dr. Fazzino's 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.

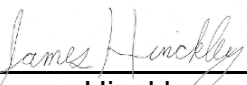
2. Connecticut Agencies Regulations §17-134d-35(a) provides that orthodontic services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations.
3. Connecticut General Statutes §17b-259b provides (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. Sec. 17b-282e of the Supplement to the 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 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. BeneCare was correct to find that ████████ does not have the presence of severe deviations affecting her oral facial structures.
6. The basis of the request for approval of interceptive orthodontic treatment for ████████ an individual under twenty-one years of age who does not qualify for a score of 26 points or greater on the Salzmann Handicapping Malocclusion Index,

that [REDACTED] has the presence of severe deviations affecting her oral facial structures, has not been established.

7. BeneCare 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.

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.