

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENIUE  
HARTFORD, CT 06105-3725

██████████ 2016  
SIGNATURE CONFIRMATION

REQUEST #765510

CLIENT ID ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2016, Connecticut Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) stating that it had denied a prior authorization request for approval of braces for the Appellant as not medically necessary, pursuant to Section 17b-259b of the Connecticut General Statutes, based on documents provided by her dentist indicating that her malocclusion did not meet the statutory and regulatory requirements for receiving approval of Medicaid payment for braces.

On ██████████ 2016, the Appellant’s representative ██████████ requested an administrative hearing to contest CTHDP’s denial of the Appellant’s prior authorization request for approval of braces.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling an administrative hearing for ██████████ 2016 @ ██████████ to address CTDHP’s denial of the Appellant’s prior authorization request for approval of Medicaid coverage for braces.

On ██████████ 2016, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing to address CTDHP’s denial of the Appellant’s prior authorization request for approval of Medicaid coverage for braces.

The closing of the record was extended to allow for the submission of additional information. The hearing record was closed on [REDACTED] 2016.

The following individuals were present at the hearing:

[REDACTED], Mother/Representative for the Appellant  
Judy Shek, Interpreter  
Karina Reininger, Representative for CTDHP  
Dr. Greg Johnson, Dental Consultant for CTDHP by telephone  
Hernold C. Linton, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CTDHP's denial of a prior authorization request for approval of Medicaid coverage for braces for the Appellant is correct and in accordance with state law.

**POR FAVOR VEA LA COPIA INCLUIDA DE ESTA DECISIÓN EN ESPAÑOL.**  
PLEASE SEE THE ENCLOSED COPY OF THIS DECISION IN SPANISH.

### **FINDINGS OF FACT**

1. The Appellant is a recipient of medical assistance under the Medicaid/HUSKY program. (Appellant Representative's testimony; Hearing Summary)
2. The Appellant is eleven (11) years of age (DOB [REDACTED]/05). (Appellant Representative's testimony; Hearing Summary)
3. On [REDACTED] 2016, CTDHP, the Department's dental subcontractor, received a prior authorization request from the Appellant's treating orthodontist for approval of Orthodontia ("braces") for the Appellant. (Hearing Summary; Dept.'s Exhibit # 1: Dental Claim Form)
4. The Appellant's prior authorization request included a completed Malocclusion Severity Assessment with a total point value of thirty (30). The request also included models and x-rays of the Appellant's teeth and underlying structures. (Hearing Summary; Dept.'s Exhibit #2: Malocclusion Severity Assessment)
5. The treating orthodontist noted that there were no other severe deviations affecting the Appellant's mouth and underlying structures. (Hearing Summary; Dept.'s Exhibit #2)
6. An Orthodontic Consultant for CTDHP evaluated the dental records and evidence provided by the Appellant's treating orthodontist and found no evidence of severe irregular placement of the Appellant's teeth within her dental arches, no irregular growth or development of her jaw bones, and gave the Appellant a score of twenty-five (25) points on the Salzmann Malocclusion Severity Assessment, and

determined that the Appellant's condition did not meet the criteria for being medically necessary. (Hearing Summary; Dept.'s Exhibit #3: █████/16 Preliminary Handicapping Malocclusion Assessment Record)

7. At the time, CTDHP did not receive evidence from a qualified Psychiatrist or Psychologist specifying the presence of related mental, emotional, and/or behavioral issues, disturbances, or dysfunctions, and did not receive evidence that the requested orthodontic treatment is necessary to ameliorate the Appellant's emotional problems. (Hearing Summary)
8. On █████ 2016, CTDHP sent a Notice of Action to the Appellant advising her that the prior authorization request received from her provider for approval of braces was denied as not medically necessary, because her score of twenty-five (25) points on the assessment is less than the needed twenty-six (26) points required; and there is no additional substantial information about the presence of severe deviations affecting her mouth and underlying structures which, if left untreated, would cause irreversible damage to her teeth or underlying structures. Also, there was no evidence presented of any treatment from a licensed psychiatrist or psychologist related to the condition of her mouth and no evidence that the requested orthodontic treatment would significantly improve the Appellant's emotional/behavior problems. (See Facts # 1 to 7; Hearing Summary; Dept.'s Exhibit # 4: █████/16 Notice of Action)
9. A second Dental Consultant for CTDHP conducted an appeal review of the Appellant's dental records, assigned the Appellant's malocclusion severity twenty-five [25] points based on the Salzman Malocclusion Severity Assessment criteria, found no evidence of severe irregular placement of her teeth within the dental arches, and no irregular growth or development of her jaw bones; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of her mouth and that the requested orthodontic treatment would significantly improve the Appellant's emotional/behavior problems. (Hearing Summary; Dept.'s Exhibit #6: █████/16 Preliminary Handicapping Malocclusion Assessment Record)
10. The Dental Consultant for CTDHP noted that there were no other severe deviations affecting the Appellant's mouth and underlying structures. (Hearing Summary; Dept.'s Exhibit #6)
11. On █████ 2016, CTDHP sent a determination letter to the Appellant informing her that her provider's request for approval of braces was once again denied. (Hearing Summary; Dept.'s Exhibit # 7: CTDHP Letter dated █████/16)
12. Pursuant to this administrative hearing, a third Orthodontic Consultant for CTDHP evaluated the Appellant's dental records and found no evidence of severe irregular placement of the Appellant's teeth within her dental arches, no irregular growth or development of her jaw bones, no other severe deviations affecting the Appellant's mouth and underlying structures, and gave the Appellant a score of twenty-four (24) points on the Salzman Malocclusion Severity Assessment, and determined that the

Appellant's condition did not meet the criteria for being medically necessary. (Dept.'s Exhibit #9: ██████/16 Preliminary Handicapping Malocclusion Assessment Record)

13. The Appellant is receiving treatment from ██████ Center for her diagnosis of Unspecified Depressive Disorder due to self-esteem issues. (Appellant Representative's testimony; Appellant's Exhibit A: ██████/16 Letter from ██████ LMSW)
14. On ██████ 2016, an Orthodontic Consultant for CTDHP reviewed the additional information provided by the Appellant's Representative and determined that only an assessment provided by a licensed Child Psychiatrist or Psychologist may be considered for approval if the original assessment score is less than 26 points, that the information regarding the Appellant's Unspecified Depressive Disorder was provided by a Social Worker, and that the Appellant's condition did not meet the criteria for being medically necessary. (Dept.'s Exhibit #10: ██████/16 Preliminary Handicapping Malocclusion Assessment Record)
15. The Appellant is receiving treatment from ██████ Center for her diagnosis of Depressive Disorder due to the condition of her mouth and teeth, and in the opinion of her provider (Dr. ██████), it is medically necessary for the Appellant to receive Orthodontia ("braces") to address her depressive symptoms such as being more self-conscious, hides her mouth, if she speaks she mumbles, not wanting to speak up in class, will not smile with others, more socially withdrawn, has poor self-esteem, feels worthless and unattractive, and feeling lonely and sad. (Appellant's Exhibit B: ██████/16 Letter from Dr. ██████)
16. The Appellant may need other appropriate dental work to address her over bite, crowding, and over jet and to address her depressive symptoms. (Appellant's Exhibit B)
17. On ██████ 2016, CTDHP conducted an appeal review of the additional information provided by the Appellant's Psychiatrist, and approved the Appellant's request for Orthodontic services. (Dept.'s Exhibit #11: ██████/16 Approval Notice)
18. The issues that led to the Appellant's request for an administrative hearing have been resolved as the CTDHP approved the Appellant's request for Orthodontic services on ██████ 2016. (See Facts # 1 to 17; Dept.'s Exhibit #11)

### **CONCLUSIONS OF LAW**

1. Section 17b-2(6) 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. Section 17b-259b of the Connecticut General Statutes states that "Medically necessary" and "medical necessity" defined. Notice of denial of services

Regulations. (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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.

(c) 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.

3. State regulation provides for the need for orthodontic services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program and states in part that:

When an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for a preliminary examination of the degree of the malocclusion. [Conn. Agencies Regs. § 17-134d-35(e)]

State regulation provides that the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions, as defined in the most current edition of the Diagnostic Statistical Manual of the American Psychiatric Association, and which may be caused by the recipients daily functioning. The Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or a licensed

psychologist who has accordingly limited his or her practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child's mental, emotional, and/or behavior problems, and the orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems. [Conn. Agencies Regs. § 17-134d-35(e)(2)]

4. Section 17b-282e of the Supplement to the Connecticut General Statutes states 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 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. The Appellant's dental crowding is not severe enough to qualify for braces at this time.
6. The Appellant's dental over jet is not severe enough to qualify for braces at this time.
7. The Appellant's dental overbite is not severe enough to qualify for braces at this time.
8. There are no other severe deviations affecting the Appellant's mouth and underlying structures.
9. The Appellant's malocclusion is not severe enough to qualify for Medicaid payment for braces at this time.
10. The Appellant's eating is normal; she does not receive treatment for pain attributed to her dental needs. Consequently, her condition does not meet the severity criteria necessary to receive approval of Medicaid payment for braces to treat her malocclusion.
11. The Department deems orthodontic treatment to be medically necessary when an individual obtains 26 or more points on a correctly scored Malocclusion Severity Assessment.
12. The Appellant's representative provided evidence to establish that, even though the Appellant's scores on three assessments were less than 26 points, she

suffers from the presence of severe mental, emotional and/or behavioral problems, disturbances, or dysfunctions caused by her dental issues.

13. The Appellant's representative provided evidence that the Appellant is being treated by a licensed Psychiatrist or Psychologist for emotional issues related to her dental needs, and that the requested orthodontic treatment would significantly improve the Appellant's depressive symptoms.
14. CTDHP correctly concluded that the malocclusion of the Appellant's teeth does not qualify her for braces, under the statutory and regulatory guidelines.
15. By approving the Appellant's request for Orthodontic services based on her emotional issues, CTDHP voided the action that led to the Appellant's request for this administrative hearing.
16. The Appellant's appeal is dismissed as CTDHP voided the action that led to the request for this administrative hearing, and there are no other issues to be adjudicated.

### **DECISION**

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



Hernold C. Linton  
Hearing Officer

Pc: **Diane D'Ambrosio**, Connecticut Dental Health Partnership,  
P.O. Box 486, Farmington, CT 06034

**Rita LaRosa**, Connecticut Dental Health Partnership,  
P.O. Box 486, Farmington, CT 06034

### **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.