

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 # 767106

NOTICE OF DECISION

PARTY

██████████
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PROCEDURAL BACKGROUND

On ██████████, 2016, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of 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 orthodontia.

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
Magdalena Carter, BeneCare’s representative
Dr. Stanley Wolfe, BeneCare’s Dental Consultant, via telephone
James Hinckley, Hearing Officer

The hearing record was held open to allow the Appellant to provide additional evidence. On ██████████ 2016, the additional evidence was received, and on ██████████ 2016, BeneCare provided a response. On ██████████ 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for [REDACTED] orthodontic services 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, [REDACTED]. (Hearing Record)
2. [REDACTED] is 14 years old (D.O.B. [REDACTED]/2001) 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. Dr. Edward Cos is [REDACTED] treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED] 2016, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED] (Summary, Ex. 1)
6. On [REDACTED] [REDACTED] 2016, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 26 points, dental models and panoramic x-ray films of [REDACTED] mouth. The treating orthodontist did not note the presence of any severe deviations affecting [REDACTED] mouth and underlying structures. (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record)
7. On [REDACTED] 2016, Dr. Robert Gange, D.D.S., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 15 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Gange did not note the presence of any severe deviations affecting [REDACTED] mouth and underlying structures. (Summary, Ex. 3: Preliminary Handicapping Malocclusion Assessment Record)
8. On [REDACTED] 2016, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services for the reason that the scoring of [REDACTED] mouth was less than the 26 points required for coverage, and there was no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated

would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)

9. On [REDACTED] 2016, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
10. On [REDACTED] [REDACTED] 2016, Dr. Geoffrey Drawbridge, D.M.D., another BeneCare orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic radiographs and arrived at a score of 13 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge noted on the assessment that he did not find evidence of severe deviations affecting [REDACTED] mouth and underlying structures. (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record, Hearing Summary)
11. On [REDACTED], 2016, BeneCare notified the Appellant that the outcome of its appeal review was that its original decision, that orthodontic treatment is not medically necessary for [REDACTED] was upheld. (Ex. 8: Appeal Review Decision Letter)
12. [REDACTED] receives therapy from a family therapist at [REDACTED]. (Appellant testimony)
13. On [REDACTED] 2016, the Appellant provided a letter from [REDACTED] family therapist stating that [REDACTED] has experienced bullying, and has poor body and self-image issues, and has issues with her levels of self-esteem and self-worth, and that orthodontic correction would assist her in dealing with her issues. (Ex. A: Letter from [REDACTED] Therapist)
14. The letter recommending orthodontic treatment for [REDACTED] is not from a licensed child psychiatrist or child psychologist. (Ex. A)
15. The letter from [REDACTED] does not document whether [REDACTED] has been diagnosed with a specific mental disorder, and, if such a disorder is present, whether the disorder is directly related to the condition of [REDACTED] teeth and whether orthodontic treatment would significantly help the disorder. (Ex. A)
16. On [REDACTED], 2016, Dr. Drawbridge reviewed the letter from [REDACTED] therapist and responded, "In order for orthodontic treatment to be approved under 26 points, a letter from a licensed child psychologist or psychiatrist stating that an ongoing emotional problem is caused by the patient's dental esthetics is necessary". (Ex. 9: [REDACTED] 2016 comments added to Preliminary Handicapping Malocclusion Assessment)

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. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models

submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.

6. ██████ study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment.
7. BeneCare was correct to find that ██████ malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.
8. Connecticut Agencies Regulations §17-134d-35(e)(2) provides in relevant part that [when a mental disorder is being considered] “the Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his 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 problem”.
9. ██████ has not been diagnosed by a child psychologist or child psychiatrist with any severe condition as defined in the Diagnostic and Statistical Manual of Mental Disorders (the “DSM”) related to the condition of her teeth which would be significantly helped by orthodontic treatment.
10. There was no finding by any of the orthodontists who evaluated ██████ mouth that ██████ had the presence of any severe deviations affecting her oral facial structures.
11. BeneCare was correct to find that there was no substantive information regarding the presence of severe deviations affecting the oral facial structures, or regarding the presence of severe mental, emotional or behavioral problems or disturbances related to ██████ dental condition, which were required to be considered in determining the medical necessity of orthodontic services for ██████
12. BeneCare was correct to deny prior authorization because ██████ did not meet the medical necessity criteria for orthodontic services, in accordance with state statute and regulations.

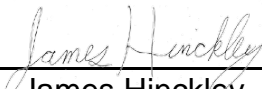
DISCUSSION

Two of three orthodontists who assessed ██████ mouth determined that the malocclusion of her teeth did not qualify for a score of 26 points or greater on the assessment, and none of the three orthodontists found that ██████ had any severe

deviations affecting her mouth. Although [REDACTED] sees a therapist, she has not been clinically diagnosed with a severe condition by a child psychologist or child psychiatrist.

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.