

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 # 771252

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 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 for 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
- ██████████ Minor Child
- Rosario Monteza, BeneCare’s Representative
- Beatriz Ruiz, Interpreter (Spanish Language)
- Dr. Vincent Fazzino, BeneCare’s Dental Consultant, via telephone
- Shelley Starr, Hearing Officer

The hearing record was held open until [REDACTED] 2016, to allow the Appellant to provide additional evidence. The time was extended until [REDACTED] 2016 to allow BeneCare to review and respond to the additional information.

On [REDACTED] 2016, BeneCare overturned the denial and approved the Appellant's request for the authorization claim for braces. On [REDACTED] 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for [REDACTED] requested orthodontic services was in accordance with state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED] [REDACTED] (Hearing Record)
2. [REDACTED] is 11 years old (D.O.B. [REDACTED]/2005) 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. Kool Smiles Dentistry of Waterbury, CT is [REDACTED] treating orthodontist (the "treating orthodontist"). (Exhibit 1: Prior Authorization Claim Form)
5. On [REDACTED] 2016, the treating orthodontist requested prior authorization to complete orthodontic treatment for [REDACTED] (Hearing Summary, Exhibit 1: Prior Authorization Claim form dated [REDACTED] 2016)
6. On [REDACTED] [REDACTED] 2016, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 30 points, dental models and panoramic x-ray films of [REDACTED] mouth. (Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, dated [REDACTED] 2016; Hearing Summary)
7. On [REDACTED] 2016, Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] dental models and panoramic radiographs, and arrived at a score of 23 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky noted that there was no presence of other severe deviations affecting [REDACTED] mouth and underlying structures. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, dated [REDACTED] 2016)

8. On [REDACTED] 2016, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services for the reasons 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. (Exhibit 4: Notice of Action for Denied Services, dated [REDACTED] 2016)
9. On [REDACTED] 2016, the Department received the Appellant's request for an administrative hearing. (Exhibit 5: Appeal and Administrative Hearing request form dated [REDACTED] 2016)
10. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, D.D.S., BeneCare's orthodontic dental consultant, conducted an appeal review; he evaluated [REDACTED] dental models and panoramic radiographs and arrived at a score of 25 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge found that [REDACTED] had no presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 7: Preliminary Handicapping Malocclusion Assessment Record dated [REDACTED] 2016)
11. On [REDACTED] 2016, BeneCare notified the Appellant that it had conducted an appeal review and determined orthodontic treatment is not medically necessary for [REDACTED] (Ex. 8: Appeal Review Decision Letter dated [REDACTED] 2016)
12. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, reviewed [REDACTED] additional medical evidence provided by the Appellant and approved the request to complete orthodontic treatment for [REDACTED] (Exhibit 10: Approval of services email and Preliminary Handicapping Malocclusion Assessment Record dated [REDACTED] 2016 letter dated [REDACTED] 2016)

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. Uniform Policy Manual (“UPM”) § 1570.05(A) provides that the purpose of the Fair Hearing process is to allow the requester of the Fair Hearing to present his or her case to an impartial hearing officer if the requester claims that the Department has either acted erroneously or has failed to take a necessary action within a reasonable period of time.
4. UPM § 1570.05(B) provides that subject to the conditions described in this chapter, the requester has the right to a Fair Hearing if: (1) the Department denies the assistance unit’s application for benefits.
5. UPM § 1570.05(C)(2) provides that the Department denies or dismisses a request for a Fair Hearing if the requester or his or her representative withdraws the request in writing.
6. The Appellant did not withdraw her request for the fair hearing in writing.
7. The Department has determined that orthodontic treatment is medically necessary for [REDACTED]
8. The Department has approved the treating orthodontist’s prior authorization request to complete orthodontic services for [REDACTED]
8. The Appellant’s appeal is moot because BeneCare has approved orthodontia for [REDACTED] therefore there is no issue on which to rule.

DECISION

The Appellant’s appeal issue is **Moot.**



Shelley Starr
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.