

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

██████████ 2016
Signature Confirmation

Client ID #: ██████████
Request #: 771297

NOTICE OF DECISION
PARTY

██████████
For: ██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, BeneCare Dental Plans ("BeneCare") sent ██████████ (the "Appellant") a notice of action denying a request for prior authorization of interceptive orthodontic treatment for ██████████ her minor child, indicating that the severity of ██████████ malocclusion did not meet the requirements in state law to approve the proposed treatment, and that orthodontia was not medically necessary.

On ██████████ 2016, the Appellant requested an administrative hearing to contest Department's denial of prior authorization of interceptive orthodontic treatment for ██████████

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ 2013, OLCRAH, at the Appellant's request, issued a notice rescheduling 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. Julius Gold, DMD, BeneCare Dental Consultant, by phone
 Christopher Turner, Hearing Officer

The hearing record was held open until ██████████ 2016, to allow BeneCare to review and respond to the additional information.

On ██████████ 2016, BeneCare overturned the denial and approved the Appellant's request for interceptive orthodontic treatment for ██████████

STATEMENT OF THE ISSUE

The issue to be decided is whether BeneCare's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for ██████████ as not medically necessary was correct and in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of ██████████ (Hearing Record)
2. ██████████ (D.O.B. ████/01) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record; Appellant's testimony)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing record)
4. Dr. Thomas Braun of Waterbury, CT is ██████████ treating orthodontist (the "treating orthodontist"). (Exhibit 1A: Orthodontia Services Claim Form; Hearing summary)
5. On ██████████ 2016, BeneCare received from the treating provider, a request to complete interceptive orthodontic treatment for ██████████ Included was a Preliminary Handicapping Malocclusion Assessment Record with a score of 27 points. Dental models and x-rays of ██████████ mouth were used for the evaluation. The treating provider noted patient is missing multiple teeth. (Exhibit 1A: Dental Claim Form dated ████/16; Exhibit 2A: Preliminary Malocclusion Assessment Record, dated ████/16)

6. On [REDACTED] 2016, Dr. Vincent Fazzino, DMD, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] x-rays and models of her teeth, and arrived at a score of 17 points on a Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino did not indicate there is the presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 3: Dr. Fazzino's Assessment dated [REDACTED]/16; Hearing summary)
7. On [REDACTED] 2016, BeneCare notified the Appellant that an appeal review determined that interceptive orthodontic treatment is not medically necessary as no presence found of any deviations affecting [REDACTED] mouth or underlying structures. (Exhibit 4: Notice of Action for Denied Services, dated [REDACTED] 2016)
8. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and x-rays, and arrived at a score of 18 points on a Preliminary Handicapping Malocclusion Record. Dr. Drawbridge commented, "Missing teeth (agenesis) are noted and assessment does not qualify for handicapping malocclusion. (Attention to caries in teeth present is priority)". (Exhibit 7: Dr. Drawbridge's Assessment dated [REDACTED]/16; Hearing summary)
9. On [REDACTED] 2016, BeneCare notified the Appellant that an appeal review determined that interceptive orthodontic treatment is not medically necessary as no presence found of any deviations affecting [REDACTED] mouth or underlying structures and there was no evidence [REDACTED] is receiving treatment by a licensed psychiatrist or psychologist related to the condition of her teeth.
10. On [REDACTED] 2016, Dr. Vincent Fazzino, DMD, BeneCare's orthodontic dental consultant, reviewed the additional evidence provided by the Appellant and determined that interceptive orthodontic treatment is medically necessary for [REDACTED] and approved the request to complete interceptive orthodontic treatment. (Exhibit 9: CTDHP letter of approval dated [REDACTED]/16)
11. On [REDACTED] 2016, an appeal resolution letter was sent to the Appellant indicating the approval of interceptive orthodontic treatment for [REDACTED] and requesting the Appellant sign, date and return the letter acknowledging services for [REDACTED] were authorized.

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) provide that orthodontic services for 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.

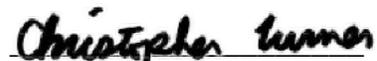
3. Connecticut General Statutes §17b-259b provides (a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate 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. Connecticut General Statutes §17b-282e provides for Orthodontic services for Medicaid recipients under twenty-one years of age. 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(b)(3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.
6. Connecticut Agencies Regulations §17-134d-35(f)(1) provide that prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and, (D) additional supportive information about the presence of other severe deviations described in Section

(e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he/she may proceed with the diagnostic assessment.

7. BeneCare was correct to approve prior authorization because [REDACTED] does meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statutes and regulations.
8. Uniform Policy Manual §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.
9. The Appellant did not withdraw her request for the fair hearing in writing.
10. The Appellant's appeal is moot because BeneCare has approved interceptive orthodontia for [REDACTED] therefore, there is no issue on which to rule.

DECISION

The Appellant's appeal is dismissed, as the issue is moot.


Christopher Turner
Hearing Officer

Cc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486
Farmington, CT 06032
Rita LaRosa, CTDHP

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, law, and 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 06105-3725.

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, if 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 06105-3725. 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.