

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 # 772002

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2016, BeneCare Dental Health Plans (“BeneCare”), administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████, (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia for ██████████ her minor child. The NOA stated that the severity of ██████████ malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of 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, 17-61, and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing via telephone conference. The following individuals participated in the hearing via teleconference:

██████████, the Appellant  
Kate Nadeau, CTDHP Grievance & Appeals Representative  
Dr. Joseph D’Ambrosio, CTDHP Dental Consultant,

Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the submission of additional evidence. On [REDACTED] 2016, the record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization for [REDACTED] orthodontic services through the Medicaid program was correct.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child, [REDACTED] whose date of birth is [REDACTED] 1999. (Hearing record and Exhibit 1: Dental Claim form)
2. [REDACTED] is a participant in the Medicaid program, as administered by the Department of Social Services ("DSS"). (Hearing Record)
3. [REDACTED] has a diagnosis of autism. (Exhibit 9G: PPT Cover Page)
4. [REDACTED] autism causes him to have a heightened sensitivity to sensory stimulation; he is particularly intolerant of pain and discomfort. (Appellant's Exhibit A: Letter from Stamford Health)
5. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
6. On [REDACTED] 2016, BeneCare received a prior authorization request from Dr. Jeffrey Drayer for orthodontics (braces) for [REDACTED] (Exhibit 1: Prior Authorization Request)
7. Dr. Drayer submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 20 points, dental models, photos and X-rays of [REDACTED] mouth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2016)
8. Dr. Drayer noted the presence of severe deviations affecting [REDACTED] mouth and underlying structures and commented that this was a surgical case. (Exhibit 2)
9. Dr. Drayer noted that [REDACTED] has a class 3 skeletal malocclusion with anterior edge to edge occlusion and bi-lateral posterior cross-bite. (Exhibit 9B: undated letter from Dr. Drayer)

10. A class 3 skeletal malocclusion is a deviation of such severity that its correction warrants approval of orthodontia. (Dr. D'Ambrosio's testimony)
11. [REDACTED] jaw is misaligned because his lower front teeth are in front of his upper front teeth. (Dr. D'Ambrosio's testimony and Exhibits 9c and 9d: X rays)
12. [REDACTED] was referred to Dr. Derek M. Steinbacher for orthognathic surgery to correct the misalignment of his jaw. (Exhibit 9a: Undated letter from Appellant)
13. On [REDACTED] [REDACTED] 2016, Dr. Roberto Gange, DDS, BeneCare's orthodontic consultant, reviewed the X Rays and records submitted by the treating orthodontist and determined that [REDACTED] scored 20 points on the Malocclusion Assessment Record. Dr. Gange did not respond to the question regarding severe deviations of the mouth and underlying structures. (Exhibit. 3: Dr. Gange's Malocclusion Assessment Record)
14. On [REDACTED] 2016, BeneCare issued a notice denying the request for braces for [REDACTED] (Exhibit 4: Notice of Action for Denied Services)
15. On [REDACTED] 2016, Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed [REDACTED] records and arrived at a score of 20 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting [REDACTED] mouth and underlying structures. (Exhibit 7: Dr. Drawbridge's Malocclusion Assessment Record)
16. On [REDACTED] 2016, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for [REDACTED] was denied for the following reasons: his score of 20 points was less than the 26 points needed for coverage; there was no presence found of any deviations affecting the mouth or underlying structures; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the conditions of his teeth. (Exhibit 7: BeneCare determination letter)
17. [REDACTED] has been suffering from pain and pressure when he eats. Because of his low tolerance to pain, this causes him to just stop eating. His mother gives him Motrin at least three times a week for pain relief when eating. His doctor has offered to prescribe a low dose pain killer but the Appellant prefers to medicate her son as little as possible and is just using the Motrin for now. (Appellant's testimony)
18. Since February, [REDACTED] has had headaches in the area behind his ears at his jawline. The headaches cannot be attributed to flu, fever or any other illness. The school nurse has contacted the Appellant and given [REDACTED] Motrin. On several occasions, the Appellant has had to pick [REDACTED] up

from school due to the headaches. When that happens, he comes home from school and spends the remainder of the day in bed due to the headache. (Appellant's testimony)

19. The headaches and pain that [REDACTED] has when eating have increased since February. (Appellant's testimony)
20. On [REDACTED] 2016, Dr. Drawbridge resubmitted his scoring sheet with the note that there is no correlation between the malocclusion and [REDACTED] mental state.
21. On [REDACTED] 2016, Dr. Drawbridge resubmitted his scoring sheet to include comments regarding the use of a cephalometric analysis (which is an analysis for the purpose of obtaining measurements of dental and skeletal relationships.) Dr. Drawbridge restated his position to deny orthodontia for [REDACTED] but he did not explain his reasons specific to [REDACTED] case. (Exhibit 12: Scoring sheet and comments from Dr. Drawbridge dated [REDACTED] 2016)

### **CONCLUSIONS OF LAW**

1. Section 17b-2(8) 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. State regulations 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. For the purposes of the administration of the medical assistance programs by the Department, "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. [Conn. Gen. Stat. § 17b-259b (a)]

4. 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. [Sec. 17b-282e of the Supplement to the General Statutes]
5. State regulations provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Conn. Agencies Regs. §17-134d-35(f)]
6. BeneCare incorrectly determined that ██████ did not have a deviation of such severity that it would cause irreversible damage to the teeth and underlying structures if left untreated. ██████ skeletal malocclusion is considered a severe deviation of the facial structure. It is causing pain and difficulty eating.
7. Orthodontia is medically necessary to treat and ameliorate ██████ medical condition of his misaligned jaw.
8. BeneCare was incorrect when it determined that orthodontia was not medically necessary for ██████ and denied the prior authorization for braces.

## DISCUSSION

The statutes provide that the Department of Social Services shall consider additional substantive information when determining the need for orthodontic services, including documentation of the presence of other severe deviations affecting the oral facial structures. [REDACTED] has a skeletal malocclusion which is causing him headaches and pain when he eats. Due to these various medical conditions, orthodontia is medically necessary for the treatment of [REDACTED] misaligned jaw. CTDHP was incorrect when it denied braces for him.

The sensory issues that [REDACTED] has because of his autism cause him to be particularly intolerant of the pain and discomfort he experiences due to his misaligned jaw. It should be noted that although orthodontia is medically necessary to treat [REDACTED] misaligned jaw, Dr. D'Ambrosio testified that such treatment comes with additional pain and discomfort. Granted, the treatment is expected to correct the problem of his misaligned jaw and free [REDACTED] from the pain and discomfort associated with the misalignment. However, this may be a case where the "cure" is worse than the problem. Dr. Drawbridge, in his comments and Dr. D'Ambrosio, in his testimony, both stated that because of [REDACTED] autism and intolerance to pain and discomfort, careful consideration needs to be given to the fact that the treatment will be especially difficult for him.

## DECISION

The Appellant's appeal is GRANTED.

## ORDER

CTDHP is ordered to reverse its decision to deny treatment and grant orthodontic treatment for this [REDACTED]. Compliance with this order is due by [REDACTED] 2016 and shall consist of verification that orthodontic treatment has been authorized.

*Maureen Foley-Roy*  
Maureen Foley-Roy  
Hearing Officer

CC: Diane D'Ambrosio, CTDHP  
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 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.

### **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.