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

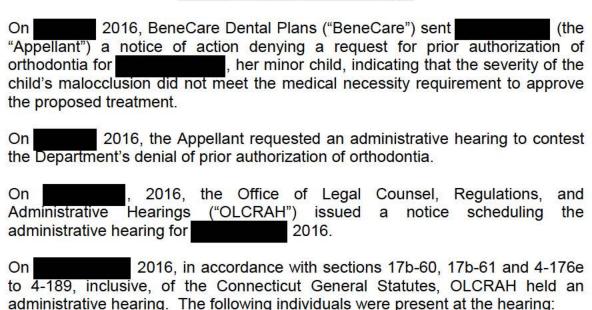
, 2016 Signature Confirmation

Client ID # Request # 774399

# NOTICE OF DECISION PARTY



#### PROCEDURAL BACKGROUND

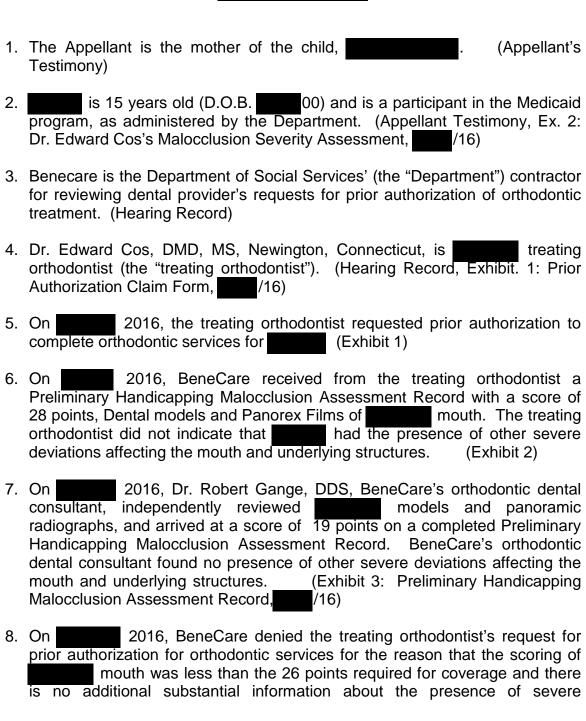


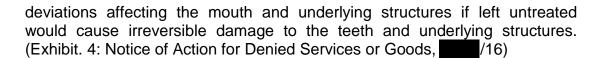
, Appellant Rosario Montesa, BeneCare's Representative Dr. Vincent Fazzino, DMD, MS, Benecare Dental Consultant (via telephone) Sybil Hardy, Hearing Officer

#### STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for orthodontic services was in accordance with state law.

#### **FINDINGS OF FACT**





- 9. On 2016, the Department received the Appellant's request for an administrative hearing. (Exhibit. 5: Appeal and Administrative Hearing Request Form, 16)
- 10.On 2016, Dr. Vincent Fazzino, DMD, the Department's dental consultant, reviewed arrived at a score of 20 points on a completed Preliminary Handicapping Malocclusion Assessment Record. There is no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, 16)
- 11. On 2016, BeneCare notified the Appellant that orthodontic treatment is not medically necessary for Carbon (Exhibit 7: Letter Regarding Orthodontic Services, 16)
- has some crowding of his teeth. (Exhibit 2, Exhibit 3, Exhibit 6)
- 13. receives regular dental care and has no cavities or periodontal disease. (Appellant's Testimony)
- 14. receives regular medical care and is in good general health. (Appellant's Testimony)
- 15. does not have any infection but experiences some pain when chewing food. (Appellant's Testimony)
- 16. stopped receiving speech therapy services in 2015. (Appellant's Testimony)
- 17. does not receive treatment from a licensed psychiatrist or psychologist for issues related to his malocclusion. (Appellant's Testimony)

## **CONCLUSIONS OF LAW**

- State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
- 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. State statute 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 generally recognized by the relevant medical community, 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]
- 4. Section 17b-282e of the Supplement to the General Statutes provides 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 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 American Psychiatric Association, that affects the individuals daily functioning.
- 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. study models submitted for prior authorization do not show severe deviations affecting the mouth and underlying structures; and do not meet the requirement of a 26 point score on the preliminary assessment.

- 7. The Department correctly determined that malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
- 8. BeneCare correctly denied the prior authorization request for because he does not meet the medical necessity criteria for orthodontic services, in accordance with state law.

### **DECISION**

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

Hearing Officer

Pc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486Farmington, CT06032 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 <u>specific</u> 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.