

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: ██████████  
Request: 778659

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2016, the Connecticut Dental Health Partnership (“CTDHP”), a dental subcontractor for the Department of Social Services (the “Department”), issued ██████████ ██████████ (the “Appellant”) a *Notice of Action* stating that it had denied a request from Connect Family Dental for approval of the replacement of existing partial or full dentures, for the reason that the Medicaid program would pay for a new full or partial dentures once every seven years and that there was no evidence provided from her primary care or attending physician that the requested service met the medical necessity care conditions set by the Department.

On ██████████ 2016, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to contest the CTDHP’s action.

On ██████████ 2016, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for ██████████ 2016. The Appellant requested that the hearing be postponed, as she was not feeling well; OLCRAH granted the postponement.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated:

██████████, Appellant  
Magdalena Carter, CTDHP’s representative

Greg Johnson, D.M.D., CTDHP's witness (by telephone)  
Eva Tar, Hearing Officer

The hearing record closed [REDACTED] 2016.

### **STATEMENT OF ISSUE**

The issue to be decided is whether CTDHP correctly denied prior authorization for payment through the Medicaid program to replace the Appellant's complete maxillary denture and mandibular partial denture.

### **FINDINGS OF FACT**

1. The Appellant's date of birth is [REDACTED] 1956. (CTDHP's Exhibit 1: *Dental Claim Form*, [REDACTED]/16)
2. The Appellant has multiple medical issues for which she is receiving treatment: DM2 [myotonic dystrophy], htn [hypertension], cad [coronary artery disease], and HIV [human immunodeficiency virus]. (Appellant's Exhibit A: Correspondence, [REDACTED]/16)
3. The Appellant requires a healthy diet. (CTDHP's Exhibit 3: Hearing request, [REDACTED]/16)
4. The Appellant has medical coverage through the Medicaid program, or HUSKY Health. (CTDHP's Exhibit 2: *Notice of Action*, [REDACTED]/16)(CTDHP's Exhibit 1)
5. The Appellant has no existing maxillary teeth. (CTDHP's Exhibit 1)
6. The Appellant has the following mandibular teeth: tooth 21, tooth 22, tooth 27, tooth 28, and tooth 29. (CTDHP's Exhibit 1)
7. The Appellant's Medicaid identification number is [REDACTED] (CTDHP's Exhibit 3)
8. CTDHP is the Department's dental subcontractor. (CTDHP's representative's testimony)
9. In 2014, the Appellant received dental treatment at Kool Smiles (the "initial medical provider") in Hamden, Connecticut. (Appellant's testimony)(CTDHP's Exhibit 3)
10. On [REDACTED] 2014, the Appellant was given the opportunity to view a wax representation of her dentures prior to processing, and approved the color, shape of her teeth and overall appearance of her dentures. (CTDHP's Exhibit 10)
11. On [REDACTED] 2014, the Appellant initialed and signed a *Client Acknowledgment of the Receipt of Denture(s) and the Policies for Replacements*, acknowledging that she had been given the denture(s), they look and fit well, was pleased with her denture and accept it as delivered. (CTDHP's Exhibit 10: Email, [REDACTED]/16)

12. On the [REDACTED] 2014 *Client Acknowledgment of the Receipt of Denture(s) and the Policies for Replacements*, the Appellant acknowledged that her Medicaid insurance only covers dentures once every seven years and that replacement before the full seven years will only be if there is an extreme accident or illness. (CTDHP's Exhibit 10)
13. On [REDACTED] 2014, the Appellant signed a form, acknowledging that "It is the patient's responsibility to seek attention when problems occur and do not lessen in a reasonable amount of time; also, to be examined regularly to evaluate the dentures, condition of the gums, and the patient's oral health." (CTDHP's Exhibit 10)
14. On [REDACTED] 2014, the Medicaid program paid \$1,165.84 to the Appellant's initial dentist for a complete upper denture (D5110) and a partial lower denture (D5214) for the Appellant, as identified by her Medicaid identification number. (CTDHP's Exhibit 5: Claims Information, printed [REDACTED] 16)
15. On [REDACTED] 2014, the Appellant complained to the initial medical provider that her upper complete denture was not fitting properly. (CTDHP's Exhibit 3: Hearing request, [REDACTED]/16)
16. On [REDACTED] 2014, the initial medical provider identified the Appellant's upper complete denture having a 6 mm gap, with 1.5 mm of open contact on the right side. The Appellant had no sign of ulceration on the soft tissue. (CTDHP's Exhibit 3)
17. The initial medical provider completed a new upper denture impression. (CTDHP's Exhibit 3)
18. The initial medical provider's [REDACTED] 2015 treatment notes do not address the Appellant's lower partial denture. (CTDHP's Exhibit 3)
19. The Appellant did not return to the initial medical provider to fix her upper denture until [REDACTED] 2015. (Appellant's testimony)
20. The initial medical provider told the Appellant when she returned in [REDACTED] 2015 that it was too late, or that too much time had passed, to fix the Appellant's denture. (Appellant's testimony)
21. The Appellant still has her 2014 dentures, at home. (Appellant's testimony)
22. The Appellant has not used the 2014 dentures in the last two years. (Appellant's testimony)
23. On [REDACTED] 2016, Connect Family Dental/Hamden Dental Care (the "second medical provider") of Hamden, Connecticut submitted a request to CTDHP for prior

authorization of Medicaid payment for a complete upper denture and a partial lower denture for the Appellant. (CTDHP's Exhibit 1)

24. Connect Family Dental/Hamden Dental Care and Kool Smiles are not the same dental practices. (Appellant's testimony)
25. On ██████████ 2016, CTDHP issued the Appellant a *Notice of Action* stating that it had denied a request from her dentist for approval of the replacement of existing partial or full dentures, as there was evidence that the Medicaid program had paid for full or partial dentures within the last seven years and there was no evidence provided from her primary care or attending physician that the requested service met the medical necessity care conditions set by the Department. (CTDHP's Exhibit 2)
26. On ██████████ 2016, CTDHP completed an internal review of the Appellant's second medical provider's request for authorization of payment to replace the Appellant's complete upper denture and partial lower denture. (CTDHP's Exhibit 6: *Dental Consultant Grievance Review Record*, ██████████/16)
27. The hearing record is silent as to whether the Appellant's existing complete upper denture and partial lower denture could be adjusted, relined, or repaired.
28. On ██████████ 2016, CTDHP issued correspondence to the Appellant stating that it was upholding its denial of a request for replacement of her complete upper denture and partial lower denture. (CTDHP's Exhibit 7: Correspondence, ██████████/16)

### **CONCLUSIONS OF LAW**

1. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.
2. Sections 17b-262-862 to 17b-262-866, inclusive, of the Regulations of Connecticut State Agencies set forth limitations on the extent of non-emergency dental services provided to adults twenty-one years of age and older who receive services under the Connecticut Medicaid program. Such limitations include coverage limits, prior authorization requirements and services that are not covered under Medicaid. These regulations supplement but do not supplant Department Medical Services Policies for dental services, including but not limited to, provider participation, eligibility, coverage limitations, billing procedures and payment, to the extent that such policies have the force of law pursuant to section 17b-10 of the Connecticut General Statutes. Conn. Agencies Regs. § 17b-262-862.
3. The limitations on coverage of certain non-emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all adults twenty-one years of age and older and are subject to the prior authorization requirements in section 17b-262-

866 of the Regulations of Connecticut State Agencies. Conn. Agencies Regs. § 17b-262-864.

4. The Appellant is an adult who is over the age of twenty-one years.
5. The Appellant is subject to limitations on coverage of non-emergency dental services as outlined in Conn. Agencies Regs. § 17b-262-864.
6. Coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows:
  - (2) Prosthodontics:
    - (A) Coverage of complete and removable partial dentures for functional purposes when there are fewer than 8 posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.
    - (B) Coverage of removable partial dentures when there are more than 8 posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies;
    - (C) One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis is acceptable and that he or she understands the department's replacement policy as described in subsection (d) of this section; and
    - (D) Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse or negligence. Conn. Agencies Regs. §17b-262-864 (b)(2).
7. CTDHP correctly determined that the Appellant had signed an acceptance form in [REDACTED] 2014, acknowledging that the dentures she had received was acceptable and that she understood the replacement policy.
8. The Medicaid program cannot pay for a replacement of the Appellant's dentures prior to [REDACTED] 2021, if it is not medically necessary to do so.
9. 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. Conn. Gen. Stat. § 17b-259b (a).

10. Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. Conn. Gen. Stat. § 17b-259b (b).
11. Replacing the Appellant's complete upper dentures and partial lower dentures is not medically necessary.
12. CTDHP correctly denied prior authorization for payment through the Medicaid program to replace the Appellant's complete maxillary denture and mandibular partial denture.

**DECISION**

The Appellant's appeal is DENIED.

*Eva Tar - electronic signature*  
Eva Tar  
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 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.