

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: 791907

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2016, the Connecticut Dental Health Partnership (“CTDHP”) issued ██████████ ██████████ (the “Appellant”) a notice stating that it had denied a request for prior authorization of orthodontic services through the Medicaid/HUSKY program for ██████████ her minor child.

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

On ██████████ 2016, the OLCRAH issued a notice to the Appellant scheduling an 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, the OLCRAH held an administrative hearing. These individuals participated in the proceeding:

██████████, Appellant  
Magdalena Carter, CTDHP’s representative  
Susan Lieb, D.D.S. CTDHP’s witness (by telephone)  
Eva Tar, Hearing Officer

The administrative hearing record closed ██████████ 2016.

## STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for ██████████

## FINDINGS OF FACT

1. ██████████ date of birth is ██████████ 2000. (CTDHP's Exhibit 1: Prior Authorization Claim Form, undated)
2. ██████████ has medical coverage through the Medicaid/HUSKY program. (CTDHP's Exhibit 4: *Notice of Action*, ██████████/16)
3. CTDHP is a dental subcontractor for the Medicaid/HUSKY program. (CTDHP's representative's testimony)
4. ██████████ was diagnosed with mild autism, within the spectrum, when he was five years old. (Appellant's testimony)
5. ██████████ does not receive treatment or counseling from a psychiatrist or psychologist; his family and counseling at his school provides his support. (Appellant's testimony)
6. ██████████ is a well-mannered kid and independent. (Appellant's testimony)
7. The Appellant believes that ██████████ will never be able to live on his own. (Appellant's testimony)
8. ██████████ does not brush his teeth without prompting by the Appellant. (Appellant's testimony)
9. The Appellant worries that ██████████ will lose more teeth because they are so crowded he cannot brush them properly. (Appellant's testimony)
10. Lance R. Kiss, D.M.D. is ██████████ orthodontist (CTDHP's Exhibit 1)(CTDHP's Exhibit 2: *Preliminary Handicapping Malocclusion Assessment Record*, ██████████16)
11. On ██████████ ■ 2015, the treating orthodontist scored the severity of ██████████ malocclusion to equal 35 points on a *Preliminary Handicapping Malocclusion Assessment Record* as part of a request for prior authorization of treatment; he referenced the date of the records as ██████████ 2015. (CTDHP's Exhibit 2)
12. The treating orthodontist noted that ██████████ had a Class 2 division 1 malocclusion, with a retrognathic mandible with severe crowding. (CTDHP's Exhibit 2)
13. CTDHP's Exhibit 1 indicates that ██████████ has no missing teeth. (CTDHP's Exhibit 1)
14. A "Class 2 division 1" is a description of a type of malocclusion. (CTDHP's witness's testimony)

15. A “retrognathic mandible” is when the patient’s lower jaw is smaller than the patient’s upper jaw. (CTDHP’s witness’s testimony)
16. In order to diagnose retrognathia, a cephalogram – a type of X-ray/profile picture showing the angles of the head and measurements of the jaw – would have to be completed. (CTDHP’s witness’s testimony)
17. The records provided for the ██████████ 2016 administrative hearing do not indicate that a cephalogram was completed on ██████████ (CTDHP’s witness’s testimony)
18. On ██████████ 2015, ██████████ had four wisdom teeth removed and two other teeth. (Appellant’s testimony)(CTDHP’s Exhibit 6: Additional information, varying dates)
19. At the ██████████ 2015 dental appointment, two bitewing images and several resin composites were completed of ██████████ mouth by Annemarie Delessio-Matta, D.M.D. of Pediatric Dental Associates. (CTDHP’s Exhibit 6)
20. On ██████████ 2016, Pediatric Dental Associates billed the Medicaid program for two bitewings, a hospital call, and resin composites; the claim identified five teeth as being missing from ██████████ mouth. (CTDHP’s Exhibit 6)
21. On ██████████ 2016, CTDHP received a request for prior authorization of orthodontic treatment for ██████████ from the treating orthodontist. (CTDHP’s representative’s testimony)
22. Benson Monastersky, D.M.D. (the “first dental reviewer”) is a CTDHP orthodontic dental consultant. (CTDHP’s Exhibit 3: *Preliminary Handicapping Malocclusion Assessment Record*, ██████████/16)
23. The first dental reviewer reviewed ██████████ ██████████ 2015 panorex and clads, as submitted to CTDHP by the treating orthodontist. (CTDHP’s Exhibit 3)
24. On ██████████ ██████████ 2016, the first dental reviewer scored the severity of ██████████ malocclusion to equal 25 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP’s Exhibit 3)
25. On ██████████ ██████████ 2016, CTDHP denied the treating orthodontist’s request for prior authorization for orthodontic services for the reason that the scoring of the severity of ██████████ malocclusion at 25 points was less than the required 26 points, and there was not additional substantial information about the presence of deviations affecting the mouth and underlying structures, which, if left untreated, would cause irreversible damage to the teeth and underlying structures. (CTDHP’s Exhibit 4)
26. Geoffrey Drawbridge, D.D.S. (the “second dental reviewer”) is a CTDHP orthodontic dental consultant. (CTDHP’s Exhibit 7: *Preliminary Handicapping Malocclusion Assessment Record*, ██████████16)

27. The second dental reviewer reviewed ██████████ ██████████ 2015 panorex and clads, as submitted to CTDHP by the treating orthodontist. (CTDHP's Exhibit 7)
28. On ██████████ 2016, the second dental reviewer scored the severity of ██████████ malocclusion to equal 24 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 7)
29. On ██████████ 2016, CTDHP notified the Appellant that the severity of ██████████ malocclusion did not meet the criteria to approve payment for orthodontic treatment. (CTDHP's Exhibit 8: 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. Orthodontic services provided under the early and periodic screening, diagnosis and treatment (EPSDT) program. Orthodontic services will be paid for when: (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations. Conn. Agencies Regs. § 17-134d-35 (a).
3. 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).
4. 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).
5. Sec. 17b-282e of the 2016 Supplement to the General Statutes provides that 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.

6. Prior Authorization. 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 may proceed with the diagnostic assessment. Conn. Agencies Regs. § 17-134d-35 (f)(1).
7. ██████████ dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not support the total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.
8. ██████████ ██████████ **2015** dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not establish that there is a severe deviation affecting the oral facial structures that if untreated, would cause irreversible damage to the teeth and underlying structures.
9. It is unclear from the hearing record, based on changes to ██████████ mouth with the removal of six teeth in ██████████ 2015, whether orthodontic services are medically necessary for ██████████

### **DISCUSSION**

On ██████████ 2016 and ██████████ 2016, CTDHP's dental reviewers scored the severity of ██████████ malocclusion to be less than the 26 points needed to permit authorization of orthodontic services.

However, the hearing record reflects that the reviewers were using panorex and clads taken of ██████████ mouth in ██████████ **2015**. These medical records do not reflect the removal of a number of ██████████ teeth on ██████████ **2015** and whatever shifting or additional crowding may have occurred with the removal of those teeth.

The hearing officer therefore remands this matter back to CTDHP for additional review, to take into account changes that occurred to ██████████ mouth *after* ██████████ 2015.

**DECISION**

The issue of this administrative hearing is REMANDED back to CTDHP for additional review.

**ORDER**

1. CTDHP will review [REDACTED] most current dental records, including the bitewings taken on [REDACTED] 2015, to assess whether there were significant changes to [REDACTED] bite with the removal of multiple teeth. CTDHP may contact [REDACTED] dental providers for any dental records, clads, panorex, or models that were taken at or subsequent to the [REDACTED] 2015 appointment that it may find useful in its review.
2. Upon the conclusion of its review, CTDHP will notify the Appellant in writing of whether it will approve or deny orthodontic treatment for [REDACTED]. Should CTDHP again deny prior authorization of orthodontic treatment for [REDACTED] the Appellant retains the right to appeal that decision, should she file a hearing request within 60 days of CTDHP's written notice to her.
3. Within 21 calendar days of the date of this decision, or [REDACTED] [REDACTED] 2016, documentation of compliance with this order is due to the undersigned.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

Cc: Magdalena Carter, CTDHP  
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.