

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

██████████ 2017
Signature confirmation

Case: ██████████
Client: ██████████
Request: 108664

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2017, the Connecticut Dental Health Partnership (“CTDHP”) issued ██████████ (the “Appellant”) a *Notice of Action* stating that it had denied her medical provider’s request for prior authorization of orthodontic services through the Medicaid/HUSKY program for ██████████ (the “child”), her minor child.

On ██████████ 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On ██████████ 2017, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for ██████████ 2017.

On ██████████ 2017, 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 in the proceeding by telephone conferencing:

- ██████████, Appellant
- ██████████, Appellant’s witness (minor child)
- Rosario Montessa, CTDHP’s representative
- Vincent Fazzino, D.M.D., CTDHP’s witness
- Eva Tar, Hearing Officer

The administrative hearing record closed ██████████ 2017.

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 the child.

FINDINGS OF FACT

1. The child's date of birth is [REDACTED] 2004. (Appellant's witness's testimony)
2. The child has medical coverage through the Medicaid/HUSKY program. (CTDHP's Exhibit 4)
3. CTDHP is a dental subcontractor for the Medicaid/HUSKY program. (CTDHP's representative's testimony)
4. Between the ages of three and five, the Appellant brought the child to a psychiatrist. (Appellant's testimony)
5. Between the ages of three and five years, the child received a diagnosis of selective mutism. (Appellant's testimony)
6. Since she was eight years old, the child has not been treated by a psychiatrist or psychologist. (Appellant's testimony)
7. The Appellant does not want the child to be treated by a psychiatrist. (Appellant's testimony)
8. At the age of thirteen, the child is able to speak, answer questions, and communicate clearly. (Hearing record)
9. On [REDACTED] 2017, a Fairfield Pediatric Dentistry employee (the "dental provider") scored the severity of the child's malocclusion to equal 26 points on a *Preliminary Handicapping Malocclusion Assessment Record*¹ as part of his request for prior authorization of orthodontic treatment. (CTDHP's Exhibit 2)(CTDHP's Exhibit 1)
10. The dental provider noted that the child has a posterior cross-bite on the left, a supernumerary tooth #10, and an impacted initial upper left cuspid (ULC). (CTDHP's Exhibit 2)
11. The posterior cross-bite is reflected in the scoring on the *The Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's witness's testimony)
12. A supernumerary tooth is an extra adult tooth. (CTDHP's witness's testimony)

¹ The *Preliminary Handicapping Malocclusion Assessment Record* is also known as the *Salzmann Handicapping Malocclusion Index*.

13. Treatment of a supernumerary tooth is to extract the less formed tooth. (CTDHP's witness's testimony)
14. An "impacted" tooth is one that is underneath the gum line; it may be in the soft tissue or stuck in the bone. (CTDHP's witness's testimony)
15. On [REDACTED] 2017, CTDHP received the dental provider's request for prior authorization of orthodontic treatment for the child. (CTDHP's representative's testimony)
16. Benson Monastersky, D.M.D. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 3)
17. On [REDACTED] 2017, the first dental reviewer scored the severity of the child's malocclusion to equal 25 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
18. The first dental reviewer noted that extracting supernumerary #10 would allow tooth #11 to erupt. (CTDHP's Exhibit 3)
19. On [REDACTED] 2017, CTDHP issued a notice denying prior authorization for orthodontic services as the scoring of the severity of the child's 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)
20. The [REDACTED] 2017 notice stated that there was no diagnostic evaluation having been done by a licensed child psychologist or a licensed child psychiatrist indicating that (1) the child's dental condition is related to the presence of severe mental, emotional and/or behavior problems, disturbances or dysfunctions, as defined in the current edition of the Diagnostic Statistical Manual; and (2) orthodontic treatment will significantly improve such problems, disturbances, or dysfunctions. (CTDHP's Exhibit 4)
21. On or around [REDACTED] 2017, CTDHP received the written recommendation of Elizabeth Marcuclo, APRN (the "nurse") that the child have "her smile adjusted" to treat her selective mutism and to improve the child's self-esteem. The nurse believes that the child's academics would also improve. (CTDHP's Exhibit 6)
22. The child is "almost a straight-A student." (Appellant's testimony)
23. Robert Gange, D.D.S. (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 7)
24. On [REDACTED] 2017, the second dental reviewer scored the severity of the child's malocclusion to equal 24 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 7)

25. Geoffrey Drawbridge, D.D.S. (the “third dental reviewer”) is a CTDHP orthodontic dental consultant. (CTDHP’s Exhibit 8)
26. On ██████████ 2017, the second dental reviewer scored the severity of the child’s malocclusion to equal 20 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP’s Exhibit 8)
27. On ██████████ 2017, CTDHP notified the Appellant that the child’s score of 24 points was less than the 26 points needed to be covered; there was no presence found of any deviations affecting the mouth or underlying structures; and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child’s teeth. (CTDHP’s Exhibit 9)

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 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. 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).

6. 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. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation. Conn. Gen. Stat. § 17b-282e.
7. If the total score is less than [twenty-six (26)] points the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions, as defined in the most current edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association, and which may be caused by the recipient's daily functioning. The department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or a licensed psychologist who has accordingly limited his or her practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child's mental, emotional, and/or behavior problems. And that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems. Conn. Agencies Regs. § 17-134d-35 (e)(2).
8. The child's dental records as submitted to CTDHP for prior authorization do not support a total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.
9. The child's dental records as submitted to CTDHP for prior authorization do not establish that there is a severe deviation affecting the oral facial structures that if untreated, would cause irreversible damage to her teeth and underlying structures.
10. The nurse's written recommendation is not a diagnostic evaluation that was performed by a licensed psychiatrist or a licensed psychologist who has limited his or her practice to child psychiatry or child psychology.

11. The nurse's written recommendation does not contain information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions as defined in the most current edition of the *Diagnostic and Statistical Manual of Mental Disorders*.
12. The nurse's written recommendation does not meet the criteria established in Conn. Agencies Regs. § 17-134d-35 (e)(2).
13. Orthodontic services are not medically necessary for the child at this time.
14. CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for the child.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Rosario Montessa, 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.