

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2017  
Signature Confirmation

Client ID # ██████████  
Request #794706

NOTICE OF DECISION  
PARTY

██████████  
For: ██████████ ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Connecticut Dental Health Partnership ("CTDHP"), sent ██████████ (the "Appellant") a notice of action ("NOA") denying a request for prior authorization of orthodontia services for her minor child, ██████████. The notice indicated that the severity of ██████████ malocclusion did not meet the requirements in state law 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, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████ Appellant  
Katie Nadeau, CTDHO's Representative  
Joseph D'Ambrosio, CTDHP's Dental Consultant, by phone  
Letty Bell, Interpreter, Interpreters and Translators, INC  
Veronica King, Hearing Officer

The Hearing record was left open for submission of additional information. On [REDACTED] 2016, the record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] mother. (Hearing Record)
2. [REDACTED] (D.O.B. [REDACTED]/99) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. CTDHP also known as BeneCare Dental Plans is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Dr. [REDACTED]y, D.M.D. is [REDACTED] treating orthodontist (the "treating orthodontist"). (Hearing Summary, Exhibit 1: Orthodontia Services Claim Form)
5. On [REDACTED] 2016, the treating orthodontist submitted to BeneCare, a Preliminary Handicapping Malocclusion Assessment Record with a score of 26 points, dental models and panorex films of [REDACTED] mouth. (Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16)
6. On [REDACTED] 2016, Dr. Vincent Fazzino, DMD, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 19 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino also found no presence of severe deviations affecting the mouth and underlying structures. Dr. Fazzino commented: "Case does not meet criteria for approval. Rotations must be at least forty five (45) degrees" (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/16)
7. On [REDACTED] [REDACTED] 2016, CTDHP issued a notice denying the treating orthodontist's request for prior authorization for orthodontic services because [REDACTED] score was less than 26 points on the Malocclusion Assessment

8. Record, his teeth were not crooked enough to qualify for braces and the teeth currently posed no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action for Denied Services or Goods, █████/16)
9. On █████ █████ 2016, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing request)
10. On ██████████ 2016, Dr. Geoffrey Drawbridge, DDS, BeneCare's dental consultant, independently reviewed ██████████ models and panoramic radiographs and arrived at a score of 19 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge also found no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, █████/16)
11. On ██████████ 2016, CTDHP notified the Appellant that the request for orthodontic services was denied because ██████████ second score of 19 points was less than the 26 points needed for coverage, lack of evidence of the presence of severe 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 ██████████ teeth. (Exhibit 7: Letter Regarding Orthodontic Services, █████/16)
12. ██████████ does not have any problems chewing or swallowing food. The Appellant testified that ██████████ experienced pain when he eats "hard foods". The Appellant also testified that ██████████ often takes "Tylenol" to help with the pain. (Appellant's Testimony)
13. ██████████ has no infection of the mouth. (Appellant's Testimony)
14. The Appellant testified that ██████████ has some aggressive behavior. ██████████ is not being treated by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances or dysfunctions. (Appellant's testimony)

## **CONCLUSIONS OF LAW**

1. 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 regulation 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 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]
4. Public Act 15-5 (June Sp. Session, Section 390) provides, in relevant part, as follows: " The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmänn 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 Salzmänn 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 individuals daily functioning.”

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. State statute requires upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. [Conn. Gen. Stats. § 17b-259b(c)]
7. CTDHP correctly determined that ██████ malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
8. CTDHP correctly determined that ██████ did not have a deviation of such severity that would cause irreversible damage to the teeth and underlying structures if left untreated.
9. CTDHP correctly determined that ██████ has not been treated by a licensed psychologist or licensed psychiatrist who has accordingly limited his or her practice to child psychiatry or child psychology.
10. CTDHP correctly determined that ██████ malocclusion did not meet the criteria for medically necessary as established in state regulations at this time.
11. CTDHP correctly denied prior authorization because ██████ does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

## **DISCUSSION**

The treating orthodontist scored the malocclusion of the [REDACTED] teeth to 26 points. Two dentists in blind reviews independently assessed the [REDACTED] models and scored the malocclusion to equal 19 points. It is reasonable to conclude that the models and x-rays do not support the severity of malocclusions and dentofacial deformity. There is some consensus across the assessments that [REDACTED] has the presence of crowding with his teeth. However, [REDACTED] malocclusion does not meet the criteria for severity as established in state regulation.

The Appellant testified that [REDACTED] suffers from pain while biting hard foods and she submitted a letter from [REDACTED] physician agreeing with the treating orthodontist request for braces. Unfortunately the additional information did not provide evidence of the presence of severe deviation affecting [REDACTED] mouth and underlying structure; therefore, [REDACTED] does not meet the medical necessity criteria or orthodontic services, in accordance with the state regulation.

## **DECISION**

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

*Veronica King*

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Veronica King  
Hearing Officer

Cc: Diane D'Ambrosio, Connecticut Dental Health Partnership  
Rita LaRosa, Connecticut Dental Health Partnership

### **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.