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

[redacted] 2017
Signature Confirmation

Client ID #[redacted]
Request # 797862

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, Connecticut Dental Health Partnership/Benecare Dental Plans ("Benecare") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of the replacement of existing upper and lower complete dentures, indicating that the replacement is not medically necessary under state law.

On [redacted] 2016, the Appellant requested an administrative hearing to contest the Benecare's denial of a prior authorization request for upper and lower complete dentures.

On [redacted] 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2016.

On [redacted] 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:

[redacted] Appellant
Rosario Monteza, Benecare's Representative
Dr. Gary Rappaport, Benecare's Dental Consultant, participated via telephone
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether Benecare's denial of prior authorization through the Medicaid program for the Appellant's replacement of existing upper and lower complete dentures was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program, as administered by the Department of Social Services ("the Department"). (Hearing Summary)

2. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of partial or full dentures. (Hearing Record)

3. First Choice Health Center (the "treating dentist") is the Appellant's treating dentist. (Hearing Summary and Exhibit 1: Dental Claim Form)

4. On [redacted] 2011, Medicaid paid for a lower complete denture for the Appellant. (Exhibit 4: Claims Information)

5. On [redacted] 2011, Medicaid paid for an upper complete denture for the Appellant. (Exhibit 4: Claims Information)

6. On [redacted] 2016, Benecare received a prior authorization request from the Appellant's treating dentist requesting approval of Medicaid coverage for a lower complete denture and upper complete denture. (Exhibit 1: Dental Claim Form)

7. On [redacted] 2016, Benecare denied the treating dentist's request for prior authorization for the replacement of complete upper denture and complete lower denture for the reason that the replacement of upper and lower dentures is not medically necessary under the factors set forth in state statute and Departmental Medical Service Policies. Specifically, Medicaid has paid for full or partial dentures within the last seven years and there was no additional medical evidence provided by your primary care or attending physician indicating that being without the dentures worsens an existing medical condition. (Exhibit 2: Notice of Action)

8. The Appellant lost her upper and lower dentures in [redacted] or [redacted] 2016. (Appellant's Testimony)

9. On [redacted] 2016, Benecare completed an administrative review and determined that the patient had received lower and upper complete dentures paid for by Medicaid within the time limitations set by state law and had not

presented any evidence by a physician stating that this dental treatment is medically necessary. (Exhibit 5: Dental Consultant Grievance Review Record)

10. On [redacted] 2016, Benecare denied the request for the replacement of the lower and upper complete dentures and notified the Appellant. (Exhibit 6: Notice of Action)

11. The Appellant is sixty (60) years old. (Exhibit 1: Dental Claim Form and Exhibit 3: Hearing Request)

12. The Appellant limits her diet because she is not able to chew hard foods that cause pain and irritate to her gums. The Appellant eats soft foods and drinks dietary supplements such as Boost. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Regulations of the Connecticut State Agencies ("Conn. Agencies Regs.") § 17b-262-862 provides that 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.

3. Regulation provides that "dentures" or "denture prosthesis" means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth. [Conn. Agencies Regs. § 17b-262-863(6)]

4. Section 184B(VI) of the Medical Services Policy provides that dentures means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

5. 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 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].

6. Statute provides that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request 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)].

7. Section 184 of the Medical Services Policy provides that for the purposes of this section, dental services are diagnostic, preventive, or restorative procedures, performed by a licensed dentist in a private or group practice or in a clinic; a dental hygienist, trained dental assistance or, or other dental professionals employed by the dentist, group practice or clinic, providing such services are performed within the scope of their profession in accordance with State law. These services relate to:

   I. The teeth and other structures of the oral cavity; and
   II. Disease, injury, or impairment of general health only as it relates to the oral health of the recipient.

8. Section 184D of the Medical Services Policy provides that payment for dental services is available for all persons eligible for Medicaid, subject to the conditions and limitations which apply to these services.

9. Section 184E of the Medical Services Policy provides that except for the limitations and exclusions listed below, the Department will pay for the

professional services of a licensed dentist or dental hygienist which conform to accepted methods of diagnosis and treatment, but will not pay for anything of an unproven, experimental or research nature or for services in excess of those deemed medically necessary by the Department to treat the recipient's diagnosis, symptoms or medical history.

10. Statute provides that the Commissioner of Social Services shall modify the extent of nonemergency adult dental services provided under the Medicaid program. Such modifications shall include, but are not limited to, providing one periodic dental exam, one dental cleaning and one set of bitewing x-rays each year for a healthy adult. For purposes of this section, "healthy adult" means a person twenty-one years of age or older for whom there is no evidence indicating that dental disease is an aggravating factor for the person's overall health condition. [Conn. Gen. Stat. § 17b-282d(a)].

11. Regulation provides that sections 17b-262-862 to 17b-262-866, inclusive, of the Regulations of Connecticut State Agencies set forth limitation 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]

12. Statute provides that all nonemergency dental services provided under the Department of Social Services' dental programs, as described in section 17b-282b, shall be subject to prior authorization. Nonemergency services that are exempt from the prior authorization process shall include diagnostic, prevention, basic restoration procedures and nonsurgical extractions that are consistent with standard and reasonable dental practices. Dental benefit limitations shall apply to each client regardless of the number of providers serving the client. The commissioner may recoup payments for services that are determined not to be for an emergency condition or otherwise in excess of what is medically necessary. The commissioner shall periodically, but not less than quarterly, review payments for emergency dental services and basic restoration procedures for appropriateness of payment. For the purposes of this section, "emergency condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and

medicine, could reasonably expect the absence of immediate dental attention to result in placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to body functions or cause serious dysfunction of any body organ or part. [Conn. Gen. Stat. § 17b-282c(a)]

13. Regulation provides that 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]

14. Regulation provides that coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows: 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)]

15. Benecare correctly determined that Medicaid paid for lower complete dentures and upper complete dentures for the Appellant within the last seven years.

16. The Appellant's condition does not meet the criteria to authorize payment for replacement dentures because the absence of dentures would not jeopardize her medical health.

17. Benecare was correct to deny prior authorization because the Appellant does not meet the medical necessity criteria for replacement of her lower complete dentures and upper complete dentures, in accordance with state statutes and regulations.

18. Statute provides that 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. Stat. § 17b-259b(c)].

19. On [redacted] 2016, Benecare correctly denied the Appellant's request for prior authorization of upper complete dentures and lower complete dentures and issued a notice of denial.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Hearing Officer

PC: Diane D'Ambrosio, Benecare
Rita LaRosa, Benecare

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 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.