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 #: 798963

NOTICE OF DECISION
PARTY

For: [redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, BeneCare Dental Plans ("BeneCare") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of interceptive orthodontic treatment for [redacted] his minor child, indicating that the severity of [redacted] malocclusion did not meet the requirements in state law to approve the proposed treatment, and that orthodontia was not medically necessary.

On [redacted] 2016, the Appellant requested an administrative hearing to contest Department's denial of prior authorization of interceptive orthodontic treatment for [redacted]

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, OLCRAH, at the Appellant's request, rescheduled the Appellant's administrative hearing for [redacted] 2017.

On [redacted] 2017, 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
[redacted] Appellant's Daughter
Kate Nadeau, BeneCare's Representative
Dr. Greg Johnson, DMD, BeneCare Dental Consultant, by phone
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether BeneCare's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for [redacted] as not medically necessary was correct and in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the father of [redacted] (Hearing Record)

2. [redacted] (D.O.B. [redacted]/07) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record; Appellant's testimony)

3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of interceptive orthodontic treatment. (Hearing Record)

4. Danbury Orthodontics is [redacted] treating provider. (Exhibit 1: Orthodontia Services Claim Form; Hearing summary)

5. On [redacted] 2016, BeneCare received from the treating provider, a request to complete interceptive orthodontic treatment for [redacted] The proposed treatment is to correct [redacted] anterior open bite and tongue thrusting habit. (Exhibit 1: Prior Authorization Request; Exhibit 2: Preliminary Handicapping Assessment dated [redacted]/16; Hearing summary)

6. On [redacted] 2016, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed [redacted] x-rays and models of her teeth. Doctor commented: "Does not meet phase one treatment guidelines. Open bite is not severe enough to warrant treatment at this time." Dr. Monastersky did not indicate there is the presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 3: Dr. Monastersky's Assessment dated [redacted]/16; Hearing Summary)

7. On [redacted] 2016, BeneCare notified the Appellant that an appeal review determined that interceptive orthodontic treatment is not medically necessary as no presence found of any deviations affecting [redacted] mouth or underlying structures and there was no evidence [redacted] is receiving treatment by a licensed psychiatrist or psychologist related to the condition of her teeth. (Exhibit 4A: Notice of Action for Denied Services or Goods dated [redacted]/16)

8. On [redacted] 2016, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, independently reviewed [redacted] models and x-rays, and arrived at a score of 15 points on a Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge commented, "Anterior open bite measures 3.63 mm – doesn't meet criteria, reevaluate with dental maturity". Dr. Drawbridge determined that interceptive orthodontic treatment is not medically necessary as no presence was found of any deviations affecting [redacted] mouth or underlying structures and there was no evidence [redacted] is receiving treatment by a licensed psychiatrist or psychologist related to the condition of her teeth. (Exhibit 6: Dr. Drawbridge's Assessment dated [redacted]/16; Hearing Summary)

9. [redacted] is not receiving treatment by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances, or dysfunctions related to her dental situation. (Appellant's testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.

2. Connecticut Agencies Regulations §17-134d-35(a) 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.

3. Connecticut General Statutes §17b-259b 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.

4. Connecticut General Statutes § 17b-259b(b) 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.

5. Connecticut General Statutes § 17b-282e provides for Orthodontic services for Medicaid recipients under twenty-one years of age. The Department of Social Services shall cover orthodontic services for a Medicaid recipient less than 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. Connecticut Agencies Regulations §17-134d-35(b)(3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.

7. Connecticut Agencies Regulations §17-134d-35(f)(1) provide that 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.

8. [redacted] models submitted by the treating provider do not support the presence of any deviations affecting the mouth or underlying structures; as required by state regulations for the authorization of comprehensive or interceptive orthodontia treatment.

9. A licensed psychiatrist or psychologist has not recommended [redacted] receive orthodontic treatment to significantly ameliorate mental, emotional, and or behavior problems, disturbances or dysfunctions.

10. BeneCare was correct to deny prior authorization because [redacted] does not meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statutes and regulations.

DECISION

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

Christopher Turner
Hearing Officer

Cc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486
Farmington, CT 06032
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, law, and 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 06105-3725.

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, if 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 06105-3725. 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.