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

[redacted] **2017**
Signature Confirmation

Client ID # [redacted]
Request # 803280

NOTICE OF DECISION
PARTY

[redacted]
Re: [redacted]
[redacted]
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, Connecticut Dental Health Partnership ("CTDHP") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of orthodontia for [redacted] indicating that the severity of her malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On [redacted] 2016, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On [redacted] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the 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
Rosaria Monteza, Grievance and Appeals Specialist, CTDHP
Dr. Vincent Fazzino, Dental Consultant, CTDHP's Representative
Beatrice Ruiz, Interpreter
Roberta Gould, Hearing Officer

At the Appellant's request, the hearing record remained open for the submission of additional evidence. On [redacted] 2017, 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 was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of [redacted] (Hearing record)

2. [redacted] (D.O.B. [redacted]/2006) is a participant in the Medicaid program, as administered by the Department. (Exhibit 1: Prior authorization dental claim form and Hearing summary)

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

4. Bridgeport Orthodontics is the Appellant's treating orthodontist (the "treating orthodontist"). (Exhibit 1: Dental Claim Form and Hearing summary)

5. On [redacted] 2016, the treating orthodontist requested prior authorization to complete orthodontic services for [redacted] (Exhibit 1 and Hearing summary)

6. On [redacted] 2016, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 16 points, dental models and Panorex films of [redacted] mouth. The record indicated that tooth number 11 is blocked out, number 10 has an edge to edge occlusion and there is a midline deviation. (Exhibit 2: Malocclusion Assessment Record and Hearing summary)

7. On [redacted] 2016, Dr. Benson Monastersky, D.D.S., CTDHP's orthodontic dental consultant, independently reviewed [redacted] models and panoramic radiographs, and arrived at a score of 13 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky found no existence of severe irregular placement of [redacted] teeth within the dental arches or of irregular growth or development of the jaw bones. He found that tooth number 11 was erupting towards the labial, that edge to edge occlusion is not scorable and that the midline is not off in [redacted] mouth. There was no evidence of emotional issues directly related to her mouth. (Exhibit. 3: Preliminary Handicapping Malocclusion Assessment Record)

8. On [redacted] 2016, CTDHP sent a Notice of Action letter to the Appellant explaining that [redacted] did not qualify for orthodontic services because it was not medically necessary. (Exhibit 4: Notice of Action for Denied Services and Hearing summary)

9. On [redacted] 2016, the Appellant requested an administrative hearing regarding CTDHP's denial of orthodontia because [redacted] teeth are out of place and causing her pain. (Exhibit 5: Administrative Hearing Request form, Hearing summary and Appellant's testimony)

10. On [redacted] 2017, Dr. Robert Gange, D.D.S., Dental Consultant for CTDHP, reviewed [redacted] model's and panoramic radiographs and arrived at a score of 15 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange also found no evidence of severe irregular placement or irregular growth or development of the jaw bones. He stated that tooth number 11 is erupting labially crowded and that tooth number 10 is not in crossbite. There was also no evidence presented of the presence of emotional issues directly related to her dental condition. (Exhibit 7: Preliminary Handicapping Malocclusion Assessment Record and Hearing summary)

11. On [redacted] 2017, CTDHP notified the Appellant that a second appeal review score of 15 points did not meet the criteria for orthodontic treatment. (Exhibit 8: Appeal Review Letter and Hearing summary)

12. [redacted] has not received treatment by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to her teeth or mouth. (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. Section 17b-282e of the Supplement to the Connecticut 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 structure; 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.

5. Connecticut Agencies Regulations §17-134d-35(f)(D) 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.

6. The study models submitted for prior authorization do not show occlusal deviations and the treating orthodontist's total point score of 16 on the preliminary assessment does not meet the criteria of twenty-six points, as required by law.

7. In the Appellant's case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that [redacted] receive orthodontic treatment to significantly ameliorate her mental, emotional, and or behavior problems, disturbances or dysfunctions.

8. CTDHP was correct to find that [redacted] malocclusion did not meet the criteria for severity, or 26 points, as established in Section 17b-282e of the Supplement to the Connecticut General Statute.

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

DISCUSSION

State regulations provide that when a person is correctly scored with at least 26 points on a Preliminary Handicapping Malocclusion Assessment Record, a test measuring severity of malocclusion and dentofacial deformity, the Medicaid program will authorize and pay for orthodontic treatment. The treating orthodontist scored the malocclusion of [redacted] teeth to equal 16 points. Two dentists in blind reviews independently assessed her models and scored the malocclusion to equal 13 points and 15 points. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

The Appellant did not provide any other evidence of a substantial nature to indicate the presence of other severe deviations affecting the mouth and underlying structures. The hearing record remained open to allow for the submission of additional evidence, but none was forthcoming.

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

The undersigned hearing officer finds that [redacted] malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations to allow the Medicaid program to pay for orthodontic services.

DECISION

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

Roberta Gould
Roberta Gould
Hearing Officer

Pc: 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.