

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 # 804903

NOTICE OF DECISION

PARTY

██████████
Re: ██████████
██████████ ██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ ██████████ 2016, BeneCare Dental Health Plans (“BeneCare”), administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia for ██████████ her minor child. The NOA stated that the severity of ██████████ malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████ 2016, the Appellant requested an administrative hearing to contest BeneCare’s denial of prior authorization of orthodontia.

On ██████████ ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Appellant requested a continuance of the hearing, which OLCRAH granted.

On ██████████ 2017, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2017.

On [REDACTED] 2017, the Appellant advised OLCRAH that she had an emergency on [REDACTED] 2017 and requested a continuance of the hearing.

On [REDACTED] 2017, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2017.

On [REDACTED] 2017, in accordance with sections 17b-60, 17-61, 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] the Appellant
Kate Nadeau, CTDHP Grievance & Appeals Representative
Dr. Jonathan Gorman, CTDHP Dental Consultant, via telephone conference call
Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the submission of additional evidence. On [REDACTED] 2017, the record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for [REDACTED] orthodontic services through the Medicaid program was correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED] [REDACTED] whose date of birth is [REDACTED] 2006. (Hearing record and Exhibit 1: Dental Claim form)
2. [REDACTED] 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, is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] has been treated for headaches for approximately three years. Allergies, hemorrhaging, and other factors have been ruled out as the cause of the headaches. (Appellant's testimony)
5. [REDACTED] experiences pain and headaches when he chews. The Appellant (his mother) gives him medication every other day for the headaches. (Appellant's testimony)

6. [REDACTED] has been seeing a headache specialist, Dr. [REDACTED], for over a year. (Appellant's Testimony)
7. Dr. [REDACTED] has assessed [REDACTED] with R51- Headache, Misalignment of teeth as per dentist; G43.009- Migraine without aura, not intractable, without status migrainosus. Dr. [REDACTED] indicates that the prognosis is guarded and that he may continue close monitoring of the headaches. He recommended a return visit in 2 weeks. (Exhibit 11: Letter from Dr. [REDACTED])
8. [REDACTED] doctor referred him to an orthodontist, due to the misalignment of his jaw. (Appellant's Testimony)
9. On [REDACTED] 2016, BeneCare received a prior authorization request from Dr. [REDACTED] for orthodontics (braces) for [REDACTED] (Exhibit 1)
10. On [REDACTED] 2016, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 26 points, dental models X-rays and photographs of [REDACTED] mouth from Dr. [REDACTED]. Dr. [REDACTED] commented "CI II div I 6mm overjet spacing and rotation". (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2016)
11. On [REDACTED] 2016, Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed the X-Rays and records submitted by the treating orthodontist and determined that [REDACTED] scored 24 points on the Malocclusion Assessment Record. Dr. Monastersky noted that there were no severe deviations affecting [REDACTED] mouth and underlying structures and stated that [REDACTED] was "class I". (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)
12. Class I and Class II refer to how the jaws are aligned. The scoring of how the jaws are aligned is found on the scoring sheets in section F 2. (Dr. Gorman's testimony)
13. On [REDACTED] 2016, BeneCare issued a notice denying the request for braces for [REDACTED] (Exhibit 4: Notice of Action for Denied Services)
14. On [REDACTED] 2017, Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed [REDACTED] records and independently arrived at a score of 18 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting [REDACTED] mouth and underlying structures. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)

15. There was no evidence presented that [REDACTED] is being treated for severe mental, emotional or behavioral problems caused by the condition or appearance of his teeth. (BeneCare Summary)
16. On [REDACTED] 2017, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for [REDACTED] was denied for the following reasons: his score of 18 points was less than the 26 points needed for coverage; there was no presence found of any deviations affecting the mouth or underlying structures; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the conditions of his teeth. (Exhibit 7: BeneCare determination letter)
17. On [REDACTED] 2017, Dr. Vincent Fazzino consultant for BeneCare, independently reviewed [REDACTED] records and independently arrived at a score of 19 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no severe deviations affecting [REDACTED] mouth and underlying structures. Dr. Fazzino stated that the Class II Division I malocclusion had been noted but that [REDACTED] case did not meet the criteria for approval and the rotations must be at least 45 degrees to be scored. (Exhibit 9: Dr. Fazzino's Malocclusion Assessment Record and Dr. Gorman's testimony)
18. On [REDACTED] 2017, Dr. Fazzino provided clarification that the classification of Class II Division I malocclusion noted on his scoring sheet reflected comments made by Dr. [REDACTED] but that the posterior segments of [REDACTED] teeth were not scored because there was a lack of Class II severity. (Exhibit 10: [REDACTED] 2017 letter from Dr. Fazzino)

CONCLUSIONS OF LAW

1. Section 17b-2(8) 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. 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. For the purposes of the administration of the medical assistance programs by the Department, "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. The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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. [Sec. 17b-282e of the Supplement to the General Statutes]
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. BeneCare correctly found that ██████████ malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
7. BeneCare correctly determined that there was no documentation of the presence of other severe deviations affecting ██████████ oral facial structures.

8. BeneCare correctly determined that there was no evidence of emotional issues directly related to [REDACTED] teeth.
9. BeneCare correctly determined that [REDACTED] medical conditions do not render braces medically necessary for him at this time as per the regulations.
10. BeneCare correctly denied braces for [REDACTED] because there was not sufficient evidence to show that orthodontia was medically necessary to treat his headaches.

DISCUSSION

State regulations provide that orthodontic services 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. The definition of medical necessity is found in COL #2, above.

[REDACTED] is ten years old and has been treated for headaches for three years. He has been under the care of a headache specialist for approximately one year. During the course of the treatment, many possible causes for the headaches have been eliminated. The specialist suggests that the headaches are secondary to [REDACTED] dental issues. The fact that the headaches begin when [REDACTED] is chewing supports that suggestion.

In reviewing the criteria established by the statute, in order to find orthodontia medically necessary to treat [REDACTED] headaches, it would need to meet the conditions found in COL #2. There was no evidence that orthodontia is accepted as standard medical practice in the treatment of headaches. There was no evidence from physicians specializing in the treatment of headaches or literature from medical societies. There was no evidence that orthodontia is appropriate in terms of type, frequency, timing, site, extent and duration and considered effective to treat [REDACTED] headaches.

The issue of headaches did not arise until the hearing. [REDACTED] mom did not even mention the headaches when she requested the hearing. She spoke of his self-confidence being affected. The providing orthodontist submitted a letter regarding [REDACTED] treatment but did not mention the headaches. The undersigned left the hearing record open so [REDACTED] doctors could submit additional evidence. The additional evidence submitted consisted of a single page from a doctor of unknown specialty who wrote two lines regarding the headaches relating to dental issues. There was not sufficient evidence that [REDACTED] headaches were caused by his dental problems and could be treated by orthodontia. The Dental Health Partnership was correct when they did not approve braces, based on the evidence.

DECISION

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

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

CC: 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 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.