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: [redacted]
Request: 807558

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On [redacted] 2016, the Connecticut Dental Health Partnership ("CTDHP") issued [redacted] (the "Appellant") a notice stating that it had denied a request for prior authorization of orthodontic services through the Medicaid/HUSKY program for [redacted] her minor child.

On [redacted] 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to contest the CTDHP's action.

On [redacted] 2017, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for [redacted] [redacted] 2017. The Appellant requested a postponement; the OLCRAH granted the request.

On [redacted] 2017, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated in the proceeding by video or telephone conferencing:

[redacted] Appellant
Rosario Monteza, CTDHP's representative
Jonathon Gorman, D.D.S., CTDHP's witness
Eva Tar, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for [redacted].

FINDINGS OF FACT

1. [redacted] is almost 14 years old. (Appellant's testimony)

2. [redacted] recently chipped a front tooth eating a regular meal that had rice and potatoes in it; the meal did not contain any ingredients that were hard. (Appellant's testimony)

3. [redacted] dentist filed the chip smooth. (Appellant's testimony)

4. The Appellant is concerned that [redacted] will have the same difficulties with his teeth that she had with hers. (Appellant's testimony)

5. [redacted] has medical coverage through the Medicaid/HUSKY program. (CTDHP's Exhibit 4)

6. CTDHP is a dental subcontractor for the Medicaid/HUSKY program.

7. Dr. [redacted] (the "treating orthodontist") of New Haven Orthodontics is [redacted] orthodontist. (CTDHP's Exhibit 2)(CTDHP's Exhibit 1)

8. On [redacted] 2016, the treating orthodontist scored the severity of [redacted] malocclusion to equal 30 points on a *Preliminary Handicapping Malocclusion Assessment Record* as part of a request for prior authorization of treatment. (CTDHP's Exhibit 2)

9. CTDHP received a request for prior authorization of orthodontic treatment for [redacted] from the treating orthodontist. (CTDHP's Exhibit 1)

10. Benson Monastersky, D.M.D. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 3)

11. On [redacted] 2016, the first dental reviewer scored the severity of [redacted] malocclusion to equal 21 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)

12. On [redacted] 2016, CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of the severity of [redacted] malocclusion at 21 points was less than the required 26 points, and there was not additional substantial information about the presence of deviations affecting

the mouth and underlying structures, which, if left untreated, would cause irreversible damage to the teeth and underlying structures. (CTDHP's Exhibit 4)

13. Geoffrey Drawbridge, D.D.S., (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 6)

14. On [redacted] 2017, the second dental reviewer scored the severity of [redacted] malocclusion to equal 23 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 6)

15. On [redacted] 2017, CTDHP notified the Appellant that the severity of [redacted] malocclusion did not meet the criteria to approve payment for orthodontic treatment. (CTDHP's Exhibit 7)

16. [redacted] is not being treated by a psychiatrist or psychologist. (Appellant's testimony)

CONCLUSIONS OF LAW

1. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.

2. Orthodontic services provided under the early and periodic screening, diagnosis and treatment (EPSDT) program. Orthodontic services will be paid for when: (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations. Conn. Agencies Regs. § 17-134d-35 (a).

3. 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 (a).

4. Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested 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).

5. Prior Authorization. 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. Conn. Agencies Regs. § 17-134d-35 (f)(1).

6. 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[1] 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. Conn. Gen. Stat. § 17b-282e.

7. [redacted] dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not support the total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.

8. [redacted] dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not establish that there is a severe deviation affecting the oral facial structures that if untreated, would cause irreversible damage to the teeth and underlying structures.

9. [redacted] has not demonstrated that he has 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 his daily functioning.

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[1] The *Preliminary Handicapping Malocclusion Assessment Record* is also known as the "Salzmann Handicapping Malocclusion Index."

10. Orthodontic services are not medically necessary for [redacted]

11. CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for [redacted]

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Rosario Monteza, CTDHP
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.