

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 809511

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, BeneCare Dental Health Plan (“BeneCare”), administered by the Connecticut Dental Health Partnership, sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for replacement of upper partial dentures.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s denial of replacing her dentures.

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

On ██████████ 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:

██████████ Appellant
██████████ Appellant’s daughter
Ruben Diaz, ITI, Interpreter
Rosario Montessa, BeneCare’s Representative
Dr. Brett Zanger, BeneCare’s Clinical Consultant, by telephone
Marci Ostroski, Hearing Officer

The hearing record was held open for the submission of additional evidence. Additional evidence was received and the record closed on [REDACTED] 2017.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for the replacement of the Appellant's upper partial dentures was correct.

FINDINGS OF FACT

1. On [REDACTED] 2013, the Department paid for upper partial dentures for the Appellant. (Exhibit 4: Claims form)
2. In [REDACTED] 2017, the Appellant misplaced the dentures for a period of a few weeks. When she located the dentures she attempted to put them into her mouth and the dentures broke. (Appellant's testimony)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of dental treatment. (Hearing Record)
4. On [REDACTED] 2016, BeneCare received a prior authorization request for upper partial dentures for the Appellant. (Exhibit. 1: ADA Dental Claim Form)
5. On [REDACTED] 2017, BeneCare sent the Appellant a notice advising her that the request for an upper denture was denied because Medicaid had paid for a denture within the past seven years. (Exhibit 2: Notice of Action, [REDACTED]/17)
6. On [REDACTED] 2017, BeneCare reviewed the Appellant's prior authorization request for an upper denture during a second level review and determined that the Department had paid for partial dentures for the Appellant on [REDACTED] 2013, and replacement of that denture was not medically necessary. (Exhibit 5: Grievance Review Record)
7. On [REDACTED] 2017, BeneCare sent the Appellant a second notice advising her that after an appeal review of the request for an upper denture, the denial was upheld. (Exhibit 6: Determination Letter, [REDACTED]/17)
8. On [REDACTED] 2017 the Appellant provided to Benecare a letter from [REDACTED] [REDACTED] which stated in part that the Appellant was receiving behavioral health services and the loss of her dentures "has been causing a negative impact on her ability to interact socially with others". (Exhibit 8: Letter from [REDACTED], [REDACTED]/17)

9. On [REDACTED] 2017, BeneCare reviewed the additional information and conducted another grievance review. BeneCare determined that the previously denied request for replacement dentures is now approved. (Exhibit 9: Grievance Review Record, [REDACTED]/17)
10. On [REDACTED] 2017 a determination letter was sent to the Appellant notifying her that the request for dentures had been approved. (Exhibit 10: Determination Letter [REDACTED]/17)

CONCLUSIONS OF LAW

1. Connecticut General Statutes (Conn.Gen.Stat) Section §17b-2(8) 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. Conn. Gen. Stat Section §17b-259b defines "medically necessary" and "medical necessity". Notice of denial of services. Regulations. (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.
 - a. (b) 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.

- b. (c) 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.
3. Medical Services Policy Section §184 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 assistant 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
 1. the oral health of the recipient.
4. Medical Services Policy Section §184D 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.
5. Medical Services Policy Section §184E 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.
6. Regulations of Connecticut State Agencies (Conn. Agencies. Regs.) Section §17b-262-865 provides that coverage of the following non-emergency dental services is limited when provided to clients twenty-one years of age and older. Each of the limitations on coverage described below are subject to exception on a case-by-case basis based upon demonstration of medical necessity and any other factors specified below. Prior authorization is required for medical payment to be available as an exception to any of the following limitations on coverage.


7. Conn. Agencies.Regs. Section §17b-262-865(d)(1) discusses prosthodontics and states complete and partial denture prosthesis construction shall be limited to one per seven (7) year period.
8. Conn.Agencies.Regs. Section §17b-262-865(d)(3) states, replacement of denture prosthesis more than once in the seven (7) year period shall be limited to replacement for reasons of medical necessity. Replacement will not be made for cosmetic reasons. Replacement will not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse, or negligence.

The Department has granted the Appellant's request for replacement of upper partial dentures. Based on this action a hearing decision could provide no further remedy for the Appellant.

The Appellant's hearing issue has been resolved; the hearing issue is moot.

DECISION

The Appellant's appeal is **DISMISSED AS MOOT**


Marci Ostroski
Hearing Officer

CC: Diane D'Ambrosio, 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, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.