

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 # 812670

NOTICE OF DECISION

PARTY

██████████
For ██████████ ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, 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 notice stated that the severity of ██████████ malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’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, 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:

██████████, the Appellant
██████████, the Appellant’s husband and father of the child
██████████, the Appellant’s friend, acting as translator

Kate Nadeau, CTDHP Grievance & Appeals Representative
 Dr. Joseph D'Ambrosio, CTDHP Dental Consultant, via telephone conference
 call
 Maureen Foley-Roy, Hearing Officer

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

Por favor, veja a cópia anexa desta decisão em português.

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], whose date of birth is [REDACTED] 2005. (Hearing record and Exhibit 1: Dental Claim form)
2. [REDACTED] is a participant in the Medicaid program, as administered by the Department. (Hearing Record)
3. CTDHP, also known as BeneCare, is the Department of Social Services' contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On [REDACTED] 2017, BeneCare received a prior authorization request from [REDACTED] for orthodontics (braces) for [REDACTED] (Exhibit 1)
5. On [REDACTED] 2017, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 19 points, dental models, X-rays and photos of [REDACTED] mouth from Dr. [REDACTED] at [REDACTED]. Dr. [REDACTED] noted the presence of a severe deviation in the form of a severe overjet which was affecting [REDACTED] mouth and underlying structures. (Exhibit 2: Malocclusion Assessment Record signed [REDACTED] 2017)
6. On [REDACTED] [REDACTED] 2017, Dr. Benson Monastersky, DDS, BeneCare's orthodontic consultant, reviewed the X Rays and records submitted by the treating orthodontist and determined that [REDACTED] scored 20 points on the Malocclusion Assessment Record. (Note: Dr. Monastersky scoring sheet notes 20 points but there was in error in his scoring and [REDACTED] actual score according to Dr. Monastersky is nineteen points.) Dr. Monastersky noted that [REDACTED] overjet was not severe enough to deem braces

medically necessary. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)

7. On [REDACTED] 2017, BeneCare issued a notice denying the request for braces for [REDACTED] (Exhibit 4: Notice of Action for Denied Services)
8. On [REDACTED] 2017, Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed [REDACTED] records and arrived at a score of 20 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting [REDACTED] mouth and underlying structures. Dr. Drawbridge noted that [REDACTED] overjet measured 7.85 mm and the criteria for "severe" overjet was 9mm. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)
9. [REDACTED] has difficulty chewing food and is unable to keep her teeth clean or use dental floss. [REDACTED] cannot completely close her mouth. (Appellant's testimony)
10. [REDACTED] is a chronic mouth breather. Treatment for nasal congestion has not provided relief for her mouth breathing. (Exhibit 12: letter from Pediatrician)
11. [REDACTED] has been teased at school regarding her appearance but does not see a counselor for emotional or behavioral problems related to the appearance of her teeth. (Appellant's testimony)
12. 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: her score of 20 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 her teeth. (Exhibit 7: BeneCare determination letter)
13. There is no evidence that the congestion or the mouth breathing was negatively affecting [REDACTED] health or that the overjet was responsible for such conditions.
14. On [REDACTED] [REDACTED] 2017, Dr. Vincent Fazzino, consultant for BeneCare, independently measured [REDACTED] overjet and determined that it was 8 mm. Dr. Fazzino also stated that the pediatrician's letter did not change the decision to deny braces for [REDACTED] Exhibit 10: Dr. Fazzino's Assessment Record)

15. On [REDACTED] [REDACTED] 2017, Dr. Donna Balaski, dentist for the Connecticut Department of Social Services, reviewed the clinical materials at the request of the Appellant's pediatric dentist and stated that she agreed with the assessments completed by the CTDHP dental consultants. (Exhibit 13b: Email dated [REDACTED] 2017)
16. On [REDACTED] 2017, the hearing officer ordered an independent review of [REDACTED] dental records by a dentist at the University of Connecticut ("UCONN") School of Dental Medicine. (Hearing Record)
17. On [REDACTED] 2017, [REDACTED] from the UCONN School of Dental Medicine reviewed the models and x-rays of [REDACTED] teeth and arrived at a score of 21 points on the malocclusion assessment record. Dr. [REDACTED] did not find the presence of severe deviations affecting [REDACTED] mouth. Dr. [REDACTED] noted that [REDACTED] overjet measured 8 mm, less than the 9mm, which would be considered a severe deviation. (Exhibit 15: Dr. [REDACTED] scoring sheet)

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 in part that the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and /or behavior problems, disturbances or dysfunctions, as defined in the most current edition of the Diagnostic Statistical Manual of the American Psychiatric Association, and which may be caused by the recipient's daily functioning. The Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or a licensed psychologist who has accordingly limited his or her practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child's mental, emotional and/or behavior problems. And that orthodontic treatment is necessary and in this case, will significantly ameliorate the problems. [Conn. Agencies Regs. §17-134d-35(e)(2)]
6. 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)]
7. BeneCare correctly found that ██████████ malocclusion did not meet criteria for severity, or 26 points, as established in state regulations.

8. BeneCare correctly determined that [REDACTED] did not have severe deviations affecting her oral facial structures.
9. BeneCare correctly determined that there was no evidence of emotional issues directly related to [REDACTED] teeth.
10. BeneCare correctly determined that [REDACTED] medical conditions do not render braces medically necessary for her at this time as per the regulations.

DISCUSSION

All of the dentists who reviewed the models, x-rays and photographs of [REDACTED] teeth agree that [REDACTED] has a significant overjet but that there is no evidence of other medical conditions that are caused by her teeth or oral facial structure. [REDACTED] family stated that they were concerned because of their understanding that [REDACTED] would develop sleep apnea and might require a tonsillectomy in the future. However, there was no evidence presented of either of those conditions or that such conditions would be related to the position of [REDACTED] teeth.

DECISION

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

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

CC: Diane D'Ambrosio, CTDHP
Rita LaRosa, CTDHP

DIREITO DE SOLICITAR RECONSIDERAÇÃO

Os Estatutos Gerais de Connecticut, Seção 4-181a(a), concedem ao recorrente o direito de solicitar reconsideração. A fundamentação para solicitar reconsideração inclui erro factual ou jurídico, descoberta de nova evidência, ou existência de outra causa justa.

O(a) recorrente deve ajuizar uma reconsideração **escrita** dentro de **15** dias da data de envio do despacho da audiência. A petição de reconsideração deve incluir fundamentações específicas para a solicitação: por exemplo, que houve erro factual ou jurídico, que existem novas evidências, ou outra causa justa. O(a) recorrente deve enviar o pedido de reconsideração para: Director, Office of Legal Counsel, Regulations and Administrative Hearings, Department of Social Services, 55 Farmington Avenue, Hartford CT 06105-3725.

Se ela deferir o pedido de reconsideração, o Diretor notificará o(a) recorrente dentro de 25 dias da data de solicitação. O Diretor poderá indeferir o pedido de reconsideração, deixando de responde-lo dentro de 25 dias.

DIREITO DE RECURSO

Os Estatutos Gerais de Connecticut, Seção 4-181a(a), concedem ao recorrente o direito de recorrer esta decisão em instância superior. O prazo para ajuizar o recurso é de **45** dias da data de despacho desta decisão. Para iniciar um recurso, o recorrente deve ajuizar uma petição na instância superior. O recorrente deve enviar cópias da petição à Promotoria Geral (Attorney General) em Hartford ou ao Comissário do Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105, e a todas as partes participantes da audiência.

Obs: Mesmo se um recorrente solicitar reconsideração, há somente **45** dias para ajuizar um recurso.

O Comissário do Department of Social Services poderá prorrogar o prazo de recursos de **45 dias** em certas circunstâncias se o recorrente tiver causa justa. O(a) recorrente deve ajuizar um pedido escrito de prorrogação junto ao Comissário no máximo **90** dias após o envio do despacho. O Comissário ou seu nomeado avaliará as circunstâncias de justa causa de acordo com os Estatutos Gerais de Connecticut, Seção 17b-61. A decisão do Comissário de conceder uma prorrogação é final. Não é sujeita a revisão ou recurso.

O(a) recorrente deve ajuizar uma petição de recurso junto ao escrivão do Tribunal de Instância Superior no Distrito Judicial de New Britain ou o Distrito Judicial em que reside.

