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

[redacted] **2017**
Signature Confirmation

Client ID # [redacted]
Request # 813039

NOTICE OF DECISION
PARTY

[redacted]
Re: [redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, BeneCare Dental Health Plans ("BeneCare"), sent [redacted] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of orthodontia for the Appellant's child, [redacted]. The NOA informed the Appellant that orthodontia for [redacted] was not medically necessary because the severity of [redacted] malocclusion did not meet requirements set in state statute and regulations for medical necessity.

On [redacted] 2017, 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, the Appellant requested a continuance which OLCRAH granted.

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, the Appellant requested a continuance which OLCRAH granted.

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
Rosario Monteza, BeneCare's Representative
Dr. Greg Johnson, BeneCare's Clinical Consultant
Thomas Monahan, Hearing Officer

The record remained open for additional information. On [redacted] 2017, the record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare'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 [redacted] mother. (Hearing Record)

2. [redacted] (D.O.B. [redacted]/06) is a participant in the Medicaid program, as administered by the Department of Social Services through Benecare. (Exhibit 1: Orthodontia Services Claim Form)

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

4. Dr. [redacted] DMD, is [redacted] treating orthodontist (the "treating orthodontist"). (Hearing record, Exhibit 1: Orthodontia Services Claim Form)

5. On [redacted] 2016, the treating orthodontist requested prior authorization to complete orthodontic services for [redacted] (Ex. 1: Claim form)

6. On [redacted] 2016, BeneCare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a

score of 32 points, x-rays and dental models of [redacted] mouth. The treating orthodontist commented that tooth number 11 is impacted. (Ex. 2: Malocclusion Assessment Record, [redacted]/16)

7. On [redacted] 2016, Dr. Geoffrey Drawbridge DDS, BeneCare's orthodontic dental consultant, independently reviewed [redacted] models and panoramic radiographs, and arrived at a score of 24 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no presence of severe deviations affecting the mouth and underlying structures. Dr. Drawbridge commented that Tooth #11 is not impacted and to reevaluate with dental development. (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/16)

8. On [redacted] 2016, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of [redacted] mouth was less than the 26 points needed for coverage and that there is no substantial information about the presence of severe deviations affecting the mouth and underlying structures. (Ex. 4: Notice of Action for Denied Services or Goods, [redacted]/16)

9. On [redacted] 2017, the Appellant requested an administrative hearing on the denial of braces for [redacted] (Ex. 5: Hearing request)

10. On [redacted] 2017, Dr. Vincent Fazzino, DMD, a Benecare dental consultant, reviewed [redacted] models and panoramic radiographs and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the mouth and underlying structures. Dr. Fazzino commented that "tooth # 11 is not impacted at this time. Sufficient development has not been completed to determine impaction". (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/17)

11. On [redacted] 2017, BeneCare notified the Appellant that [redacted] score of 22 points did not meet the criteria for orthodontic treatment. (Ex. 7: Letter Regarding Orthodontic Services, [redacted]/17)

12. The Appellant submitted a neuropsychological examination from Dr. [redacted] [redacted] PhD. which states that [redacted] be treated with psychopharmacology and weekly counseling because of emotional dysregulation. [redacted] struggles with very low levels of self-esteem secondary to ADHD, anxiety and clinical depression. The report recommends braces because [redacted] considers himself ugly and braces will address his area of self-view.

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]

2. State regulations provide that orthodontic 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. Conn. Gen. Stat.§ 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 states 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 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."

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. In [redacted] case the study models submitted for prior authorization do not meet the requirement of a 26 point score on the preliminary assessment. There is no presence of severe deviations affecting the mouth and underlying structures.

7. In [redacted] case, the evidence and letter submitted by Dr. [redacted] does not demonstrate that orthodontic treatment will significantly ameliorate [redacted] mental, emotional, and or behavior problems, disturbances or dysfunctions.

8. BeneCare 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.

DECISION

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

Thomas Monahan
Thomas Monahan
Hearing Officer

Pc: Diane D'Ambrosio, Connecticut Dental Health Partnership
Rita LaRosa, Connecticut Dental Health Partnership

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 060105-3725.

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 06105-3725. 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.