

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 # 820290

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2017, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization for orthodontic treatment for ██████████ her minor child, indicating that the severity of ██████████ malocclusion did not meet the medical necessity requirement to approve the proposed treatment, but the NOA was mailed to the Appellant’s wrong address.

On ██████████ 2017, the NOA was mailed to the Appellant’s correct address.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization to complete orthodontic treatment. The Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) considered the Appellant’s request to be timely because it was made within 60 days from when she was properly notified of the action.

On ██████████ 2017, OLCRAH issued a Notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, due to administrative delay, OLCRAH rescheduled the hearing for ██████████ 2017.

On ██████████ 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:

██████████, Appellant  
Magdalena Carter, BeneCare's representative  
Fernando De La Cruz, translator, Interpreters and Translations  
Dr. Greg Johnson, BeneCare's Dental Consultant, via telephone  
James Hinckley, Hearing Officer

The hearing record was held open until ██████████ 2017 for BeneCare to evaluate additional dental records submitted by the Appellant at the hearing. On ██████████ 2017, the hearing record closed.

**Por favor vea la copia incluida de esta decisión en español.**

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization for ██████████ orthodontic services as not medically necessary was in accordance with state statute and regulations.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child, ██████████ (Hearing Record)
2. ██████████ is 12 years old (D.O.B. ██████████/2004) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. ██████████ D.M.D. is ██████████ treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On ██████████ 2016, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for ██████████ (Summary, Ex. 1)
6. On ██████████ 2016, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 26 points, dental models and panoramic x-ray films of ██████████ mouth. The treating orthodontist did not report the presence of severe deviations affecting ██████████ mouth and underlying structures. (Ex. 2: *Preliminary Handicapping Malocclusion Assessment Record* completed by the treating orthodontist, Hearing Summary)

7. On [REDACTED] 2017, Vincent Fazzino, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and determined her dental condition qualified for a score of 17 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Fazzino noted that he did not find the presence of severe deviations affecting [REDACTED] mouth and underlying structures and commented, "Rotations must be at least 45 degrees in order to be scored. Case does not meet criteria for approval". (Ex. 3: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Fazzino)
8. On [REDACTED] 2017, BeneCare denied the treating orthodontist's request for prior authorization of orthodontic services for the reasons that the scoring of [REDACTED] mouth was less than the 26 points required for coverage, and that there was no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)
9. The [REDACTED] 2017 NOA was mailed to an incorrect address. (Ex. 4, Appellant's testimony)
10. On [REDACTED] 2017, the NOA was re-mailed to the Appellant's correct address. (Hearing Record)
11. On [REDACTED] 2017, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
12. On [REDACTED] 2017, Geoffrey Drawbridge, D.D.S., a second BeneCare orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic radiographs and determined that her dental condition qualified for a score of 18 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge noted that he did not find the presence of severe deviations affecting [REDACTED] mouth and underlying structures. (Ex. 7: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Drawbridge)
13. On [REDACTED] 2017, BeneCare notified the Appellant that the outcome of the appeal review was that its original decision, that orthodontic treatment is not medically necessary for [REDACTED] was upheld. (Ex. 8: Appeal Review Decision Letter)

14. On ██████ 2017, the Appellant submitted a single dental x-ray of ██████ mouth dated ██████ 2017 as evidence for the hearing; the x-ray did not include any comments from a dentist. (Ex. A: x-ray dated ██████ 2017)
15. On ██████ 2017, Dr. Drawbridge submitted written comments after reviewing ██████ ██████ 2017 x-ray that said, "Additional diagnostic information of 4/13/17 indicating supernumerary adjacent to #8, #9 presents surgical problem – not orthodontic". (Ex. 9: Dr. Drawbridge's ██████/17 comments)
16. Dr. Fazzino's and Dr. Drawbridge's independent reviews were in close agreement, scoring nearly all the same teeth as maloccluded, and arriving at nearly the same total score. (Ex. 3, Ex. 7)
17. The treating orthodontist's assessment differed from the other two orthodontist's assessments in that it was the only one to score teeth #20, #28 and #29 as maloccluded in the Intra-Arch Deviation section, and the only one to score any points at all in the Posterior Segments section. (Ex. 2, Ex. 3, Ex. 7)
18. The Appellant does not claim that ██████ has any mental health problems, or any other medical conditions, that are in any way related to her dental condition. (Appellant testimony)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. Connecticut Agencies Regulations §17-134d-35(a) provides 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.
3. Connecticut General Statutes §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. Sec. 17b-282e of the Supplement to the General Statutes provides that 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.
5. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.
6. █████ study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment; two assessments, scored in near agreement by orthodontists familiar with the scoring of the *Preliminary Handicapping Malocclusion Assessment Record*, found that █████ qualified for a score of less than 26 points.
7. BeneCare was correct when it found that █████ malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.
8. There is no evidence that █████ has any severe deviations affecting her oral facial structures.
9. There is no evidence that █████ has any severe mental health condition defined in the DSM which would be significantly helped by orthodontic treatment.
10. BeneCare was correct when it found that there is no substantive information regarding the presence of severe deviations affecting the oral facial structures, or regarding the presence of severe mental, emotional or behavioral problems or disturbances, which needed to be considered in determining the need for orthodontic services for █████


11. BeneCare acted in accordance with state statute and regulations when it denied prior authorization of orthodontic services for [REDACTED] because [REDACTED] did not meet the medical necessity criteria to qualify for the requested orthodontic services.

### **DISCUSSION**

According to Dr. Drawbridge, the existence of a supernumerary or “extra” tooth is a problem which should be addressed by an oral surgeon. The problem would not change the scoring of the assessment, and does not have a bearing on [REDACTED] eligibility for orthodontic treatment.

### **DECISION**

The Appellant’s appeal is **DENIED**.

  
\_\_\_\_\_  
James Hinckley  
Hearing Officer

cc: 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 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.