

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 # 829773

NOTICE OF DECISION

PARTY

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

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
Magdalena Carter, CTDHP Grievance & Appeals Representative

Dr. Vincent Fazzino, Orthodontist, 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.

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] 2006. (Hearing record and Exhibit 1: Dental Claim form)
2. [REDACTED] still has some baby teeth but they are going to be pulled to create more space in her mouth. (Exhibit 2: Dr. [REDACTED] Assessment sheet and Appellant's testimony)
3. [REDACTED] is a participant in the Medicaid program, as administered by the Department. (Hearing Record)
4. 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)
5. On [REDACTED] 2017, [REDACTED] was involved in an incident at school where boys were bullying her due to the appearance of her teeth. The bullying had happened on several occasions. (Appellant's testimony and Exhibit A: Email Exchange)
6. [REDACTED] has been involved with a school counselor on a weekly basis since the third grade. She became involved with the counselor as the companion of another child who was very shy. The child chose [REDACTED] to join her in meeting with the counselor and the school recommended that [REDACTED] continue with the meetings. (Appellant's testimony)
7. [REDACTED] does not meet with a counselor or therapist on her own regarding the appearance of her teeth. (Appellant's testimony)

8. [REDACTED] suffers from migraines. Her former pediatrician attributed the migraines to allergies. [REDACTED] has a new pediatrician who is conducting an evaluation to determine the cause of the migraines. (Appellant's testimony)
9. The Appellant suffered from migraines as a child. She had braces to align her jaw and it helped with the migraines.(Appellant's testimony)
10. On [REDACTED] 2017, BeneCare received a prior authorization request from Dr. [REDACTED] for orthodontics (braces) for [REDACTED] (Exhibit 1)
11. On [REDACTED] [REDACTED] 2017, BeneCare received a Preliminary Handicapping Malocclusion Assessment Record with a score of 33 points, dental models and X-rays of [REDACTED] mouth from Dr. [REDACTED] at [REDACTED]. Dr. [REDACTED] noted that [REDACTED] had a Class II, division I deep overbite with moderate lower and severe upper crowding. (Exhibit 2: Malocclusion Assessment Record signed [REDACTED] 2017)
12. On [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 23 points on the Malocclusion Assessment Record. (Note: Dr. Monastersky scoring sheet notes 23 points but there was in error in his scoring and [REDACTED] actual score according to Dr. Monastersky is 24 points.) Dr. Monastersky noted that there were no severe deviations affecting the teeth and underlying structures. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)
13. On [REDACTED] 2017, BeneCare issued a notice denying the request for braces for [REDACTED] (Exhibit 4: Notice of Action for Denied Services)
14. On [REDACTED] [REDACTED] 2017, Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed [REDACTED] records and arrived at a score of 23 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 7.47 mm. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)
15. [REDACTED] is concerned about the way her teeth look and she does not smile due to her appearance. (Appellant's testimony)
16. 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 23 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)

17. On [REDACTED] 2017, at the hearing, the Appellant presented photographs of [REDACTED] and a letter from her dentist recommending braces for [REDACTED] (Appellant's Exhibit C: Photographs and Exhibit D: Letter from Dr. [REDACTED] DDS)
18. On [REDACTED] 2017, Dr. Fazzino reviewed the additional exhibits by the Appellant submitted at the hearing and determined that [REDACTED] did not meet the criteria for approval of orthodontia.

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 ██████ 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 ██████ 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

The Appellant testified and presented evidence that her main concern with [REDACTED] teeth is their appearance. She stated that [REDACTED] teeth bother her due to the way they look. She states that [REDACTED] has been bullied at school due to her appearance. She is also concerned with the importance of a nice smile and how all of this will affect [REDACTED] as she starts middle school. While these are all valid concerns for her daughter, there was no evidence or testimony that braces are medically necessary for [REDACTED]. The issue of [REDACTED] migraines seemed to be an afterthought and there was no evidence indicating that migraines were associated with [REDACTED] teeth. The law is clear that Medicaid pays for orthodontic treatment only when such treatment is medically necessary. [REDACTED] does see a counselor but it is not for issues relating to her teeth and there was no evidence that [REDACTED] has emotional issues related to her teeth. BeneCare was correct when it determined that braces are not medically necessary for [REDACTED] per the regulations at this time.

DECISION

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

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

CC: 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 Administrative Hearings and Appeals, 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 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.

