

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

██████████, 2018
Signature Confirmation

Client ID # ██████████
Request # 113498

NOTICE OF DECISION

PARTY

Ms. ██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, 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 NOA stated that the severity of the child’s malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████, 2018, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

On ██████████ ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for March 1, 2018.

On ██████████ ██████████ 2018, the Appellant contacted OLCRAH to request a continuance of the hearing.

On ██████████ 2018, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2018.

On [REDACTED] 2018, 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 presented at the hearing:

[REDACTED], the Appellant
Magdalena Carter, CTDHP Grievance & Appeals Representative
Dr. Brett Zanger, CTDHP Dental Consultant, via telephone conference call
Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the submission of additional evidence. On [REDACTED] 2018, the record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for orthodontic services through the Medicaid program for the Appellant's minor child was correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED] ("the child") whose date of birth is [REDACTED]. [REDACTED] is fourteen years old. (Hearing record and Exhibit 1: Dental Claim form)
2. The child is a participant in the Medicaid program, as administered by the Department of Social Services ("DSS"). (Hearing Record)
3. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. The child has been diagnosed with [REDACTED]'s syndrome. She was experiencing significant difficulty chewing and swallowing and is being treated by the feeding team at [REDACTED] Medical Center. (Exhibit 6: [REDACTED], 2018 letter from Kids Station Pediatrics)
5. The diagnoses of [REDACTED] syndrome has led to many physical challenges for the child. She has needed physical and occupational therapy. (Exhibit 6)
6. The child cannot chew her food properly. It gets stuck in her esophagus and it is aspirated. Sometimes food that she has eaten comes out of her nose. (Appellant's testimony)
7. Because of her diagnoses and symptoms that are difficult to manage, including issues with chewing and swallowing, the child has been diagnosed

with [REDACTED] and [REDACTED] due to a medical condition. She is a patient at [REDACTED]. (Exhibit 8: [REDACTED] 2018 letter from [REDACTED])

8. On [REDACTED] 2017, the child was seen at the [REDACTED] Medical Center for outpatient feeding therapy through the speech language pathology department. She was prescribed such therapy once a week for 6 sessions. (Appellant's Exhibit A: Progress Notes from [REDACTED] Medical Center)
9. On [REDACTED] 2017, BeneCare received a prior authorization request from Dr. [REDACTED] for orthodontics (braces) for the child. (Exhibit 1: Prior Authorization Request)
10. Dr. Raney submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 24 points, dental models and X-rays of the child's mouth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED], 2017)
11. Dr. Raney did not complete the section on the form regarding other deviations. (Exhibit 2)
12. On [REDACTED], 2017, Dr. Vincent Fazzino, BeneCare's orthodontic consultant, reviewed the X Rays and models submitted by the treating orthodontist and determined that the child scored 18 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no severe deviations affecting the child's mouth or underlying structures. Dr. Fazzino also noted that "case does not meet criteria for approval. 26 pts needed." (Exhibit. 3: Dr. Fazzino's Malocclusion Assessment Record)
13. On [REDACTED] 2018, BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
14. On [REDACTED], 2018, the Appellant submitted the letter from Kids Station Pediatrics regarding the child's diagnosis. (Exhibit 6)
15. On [REDACTED] [REDACTED] 2018, Dr. Gregory Drawbridge, DDS, consultant for BeneCare, reviewed the child's records and arrived at a score of 23 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting the child's mouth and underlying structures. (Exhibit 7: Dr. Drawbridge Malocclusion Assessment Record)
16. On [REDACTED] 2018, Dr. Robert Gange, DDS, consultant for BeneCare reviewed the child's records and arrived at a score of 13 points on the Malocclusion Assessment Record. Dr. Gange noted that the child's

posterior occlusion demonstrated that she had good masticatory function. (Exhibit 10: Dr. Gange's Malocclusion Assessment Record)

17. "Good masticatory function" means that the child is able to chew successfully. (Dr. Zanger's testimony)
18. On [REDACTED] 2018, Dr. Fazzino reviewed the letter from [REDACTED] and determined that such letter did not meet the criteria which would make braces medically necessary for the child. (Exhibit 9: [REDACTED] 2018 letter from Dr. Fazzino)
19. On [REDACTED], 2018, Dr. Drawbridge reviewed the case and determined that the letter submitted by [REDACTED] did not meet the criteria detailing that the child was being treated by a licensed child psychiatrist or psychologist for an emotional condition caused by the child's dental condition. Dr. Drawbridge also indicated that the difficulty that that the child experiences chewing and swallowing are symptomatic of her [REDACTED] syndrome and would not be reversed by orthodontia. (Exhibit 12: [REDACTED] 2018 letter from Dr. Drawbridge)
20. On [REDACTED] 2018, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for her child was denied for the following reasons: her score of 13 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 11: BeneCare determination letter of [REDACTED] 2018)
21. On [REDACTED], 2018, Dr Gange reviewed the record once again along with photographs and notes from the feeding team at [REDACTED] Medical Center. Dr. Gange determined that the new information did not alter the assessment and that braces were not medically necessary for the child. (Exhibit 14: Dr. Gange's [REDACTED] 2018 Assessment)

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 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 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. [Sec. 17b-282e of the Supplement to the General Statutes]
5. State regulations provide that If the total score is less than twenty-four (24) points 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 prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment. [Conn. Agencies Regs. §17-134d-35(f)(1)]
 7. State regulations define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment. [Conn. Agencies Regs. § 17-134d-35(b)(3)]
 8. 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)]
 9. BeneCare correctly found that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
 10. BeneCare correctly determined that the child did not have a deviation of such severity that it would cause irreversible damage to the teeth and underlying structures if left untreated.
 11. BeneCare correctly determined that there was no evidence of severe emotional, mental or behavioral issues directly related to the child's teeth which affect her daily functioning.

12. BeneCare was correct when it determined that orthodontia was not medically necessary for the child and denied the prior authorization for braces.
13. Benecare was correct to deny prior authorization because the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

DISCUSSION

Four dentists reviewed the models and X rays of the child's teeth and mouth and none of them determined that her teeth scored the requisite 26 points to qualify for braces under the Medicaid program. The child's medical condition is compromised by her diagnosis of [REDACTED] syndrome. It was stated that the child has difficulty chewing and swallowing. (All of the dentists show some degree of misalignment of the child's teeth.) The Appellant believes that better chewing could alleviate some of the problems that the child experiences. However, there was no evidence submitted to support that theory. The notes from the feeding team do not mention chewing; all references are in regard to her difficulty swallowing.

The child has been diagnosed with anxiety disorder. There is no evidence that her anxiety is directly related to her dental condition or that the severity is affecting her daily functioning. Braces are not medically necessary, as defined by the regulation, for the child at this time.

DECISION

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

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.