

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 # 0 ██████████  
Request # 117370

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**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 interceptive orthodontic treatment for ██████████ ██████████, her minor child.

On ██████████, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of interceptive orthodontic treatment.

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

On ██████████, 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:

██████████, the Appellant  
Magdalena Carter, CTDHP Grievance & Appeals Representative  
Dr. Benson Monastersky, DMD, CTDHP Dental Consultant, via telephone conference call

Maureen Foley-Roy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether BeneCare's denial of prior authorization for interceptive orthodontic treatment 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 twelve years old. (Hearing record and Exhibit 1: Dental Claim form)
2. The child still has a few baby teeth. (Appellant's testimony)
3. The child is a participant in the Medicaid program, as administered by the Department of Social Services ("DSS"). (Hearing Record)
4. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
5. On [REDACTED], 2017, BeneCare received a prior authorization request from Dr. [REDACTED] for interceptive orthodontic treatment for the child. (Exhibit 1: Prior Authorization Request)
6. [REDACTED] submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 14 points, dental models, photographs and X-rays of the child's mouth. He indicated that the child had an anterior impacted tooth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] [REDACTED] 2017)
7. The criterion for interceptive orthodontic treatment differs from the criteria for full orthodontic treatment. The score totals on the Malocclusion Assessment record are irrelevant for interceptive treatment. (Dr. Monastersky's testimony)
8. The Salzmann malocclusion Assessment instrument considers teeth numbers 7,8,9 and 10, 23,24,25, and 26 to be anterior teeth. The Salzmann instrument considers tooth #6 to be a posterior tooth. Generally, dentists would consider tooth # 6 to be an anterior tooth. (Dr. Monastersky's testimony)
9. On [REDACTED] 2018, Dr. Robert Gange, BeneCare's orthodontic consultant, reviewed the X Rays and models submitted by the treating orthodontist and

determined that the child scored 14 points on the Malocclusion Assessment Record. Dr. Gange noted that there were no severe deviations affecting the child's mouth or underlying structures. Dr. Gange also noted that there were no anterior impacted teeth and that the cuspids were crowded, not impacted". "(Exhibit. 3: Dr. Gange's Malocclusion Assessment Record)

10. On [REDACTED], 2018, BeneCare issued a notice denying the request for interceptive orthodontic treatment for the child. (Exhibit 4: Notice of Action for Denied Services)
11. On [REDACTED], 2018, Dr. Vincent Fazzino, DMD, consultant for BeneCare reviewed the child's records and arrived at a score of 16 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no anterior impacted teeth. Dr. Fazzino commented that "the lower incisors do not contact the palatal tissue." (Exhibit 6: Dr. Fazzino's Malocclusion Assessment Record)
12. Dr. Fazzino's comments regarding the palatal tissue are regarding Dr. Smith's scoring of an overbite on his assessment sheet. Dr. Fazzino states that because the teeth are not touching the palatal tissue, the overbite is not scorable. (Dr. Monastersky's testimony)
13. There was no evidence presented that the child is being treated by a mental health professional for severe mental, emotional or behavioral problems or disturbances relating to the condition of her teeth. (Hearing record)
14. On [REDACTED] 2018, BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of interceptive orthodontic treatment for her child was denied because there were no deviations affecting the mouth or underlying structures and there was no evidence of treatment by a licensed child psychiatrist or psychologist for emotional issues related to the condition of her child's teeth.

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

3. 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)]
4. 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)]
5. 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]
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. The study models and x-rays submitted by the treating orthodontist do not clearly support the presence of deviations affecting the mouth and the underlying structures as per state regulations for the authorization of orthodontia treatment.
  9. 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.
  10. BeneCare correctly determined that there was no evidence of emotional issues directly related to the child's teeth.
  11. BeneCare was correct when it determined that orthodontia was not medically necessary for the child.
  12. Benecare was correct to deny prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statutes and regulations.

### **DISCUSSION**

There was no evidence presented at the hearing that interceptive orthodontia is medically necessary for ██████ at this time. The dental consultant testifying at the hearing noted that ██████ possibly has an impacted tooth and may qualify for full orthodontic treatment in the future, as her dentition matures.

**DECISION**

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

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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.