

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

July 3, 2018  
Signature Confirmation

Client ID # [REDACTED]  
Request # 118841

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
Re: [REDACTED]  
[REDACTED].  
[REDACTED].  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED], 2018, BeneCare Dental Plans (“BeneCare”) sent [REDACTED] (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of orthodontic treatment for [REDACTED], her minor child, indicating that the severity of [REDACTED]’s malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On [REDACTED] 2018, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization to complete orthodontic treatment for her daughter.

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

On [REDACTED], 2018, at the Appellant’s request, OLCRAH issued a notice rescheduling the hearing for June 13, 2018.

On [REDACTED], 2018, 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  
Katherine Matos, translator, ITI  
Magdalena Carter, BeneCare’s representative

Dr. Stanley Wolfe, BeneCare's Dental Consultant, via telephone  
James Hinckley, Hearing Officer

The hearing record was held open to allow time for the Appellant to provide additional information relevant to her request for orthodontic treatment for her daughter. No additional information was provided, and on [REDACTED], 2018, 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 [REDACTED]'s requested 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, [REDACTED] (the "child"). (Hearing Record)
2. The child is 17 years old (D.O.B. [REDACTED]/2000) 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. New Haven Orthodontics is the child's treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED], 2018, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for the child. (Summary, Ex. 1)
6. On [REDACTED], 2018, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 20 points, digital models, and panoramic x-ray films of the child's mouth. The treating orthodontist noted that severe deviations affecting the child's mouth and underlying structures were present, and commented on the assessment, "Anterior Crossbite #10, Gingival Recession #24, Midline Deviation". (Ex. 2: *Preliminary Handicapping Malocclusion Assessment Record* completed by the treating orthodontist, Hearing Record)
7. On [REDACTED], 2018, Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed the child's digital models and

panoramic radiographs, and arrived at a score of 13 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky noted that he found no presence of severe deviations affecting the child's mouth and underlying structures. Dr. Monastersky also commented, "Gingival margin #24 is within normal limits". Dr. Monastersky's decision on the assessment was that the requested services were not approved. (Ex. 3: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Monastersky)

8. On [REDACTED] 2018, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services for the reasons: 1) that the scoring of the child's mouth was less than the 26 points required for coverage; and a) 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 b) 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. On [REDACTED] 2018, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
10. On [REDACTED], 2018, Geoffrey Drawbridge, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of the child's digital models and panoramic radiographs and arrived at a score of 23 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge noted no presence of severe deviations affecting the child's mouth and underlying structures and commented, "Gingival margin #24 not significant as compared to adjacent teeth, Midline discrepancy is dental not functional". Dr. Drawbridge's decision on the assessment was that the requested services were not approved. (Ex. 6: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Drawbridge)
11. On [REDACTED] 2018, BeneCare notified the Appellant that the outcome of the appeal review was that its original decision, that orthodontic treatment was not medically necessary for the child, was upheld. (Ex. 8: Appeal Review Decision Letter)
12. Because BeneCare considered the ten-point difference between the scores of its two orthodontic consultants who assessed the child's teeth to be significant, it requested that another of its consultants complete a third review. On [REDACTED], 2018, Vincent Fazzino, D.M.D., another BeneCare orthodontic dental consultant, conducted a review of the child's digital models and panoramic radiographs and arrived at a score of 20 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Fazzino made no comments on the

assessment, and his decision was that the requested services were not approved. (Ex. 3, Ex. 6, Hearing Summary, Ex. 8: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Fazzino)

13. None of the four orthodontists who assessed the child's teeth, including her own treating orthodontist, determined that she qualified for a score of 26 points or more on the assessment. (Ex. 2, Ex. 3, Ex. 6, Ex. 8)
14. The child was recently diagnosed as having diabetes. (Appellant's testimony)
15. The child sometimes experiences bleeding in her mouth. (Appellant's testimony)
16. The child has never required medical or dental treatment specifically related to an occurrence of bleeding in her mouth. (Appellant's testimony)
17. Bleeding in the mouth is most commonly attributable to improper or inadequate oral care and hygiene. Diabetic individuals, as a population, have more difficulty maintaining proper oral care, and are at greater risk of gum disease and more prone to bleeding. (Dr. Wolfe's testimony)
18. The treating orthodontist did not note on the assessment that malocclusion of the child's teeth was causing bleeding, although he noted as a problem, "Gingival recession #24". (Ex. 2)
19. On the three assessments completed by BeneCare's orthodontic consultants, Dr. Fazzino did not note that he observed any indication of tissue injury caused by contact with maloccluded teeth; Dr. Monastersky commented, "Gingival margin #24 is within normal limits" and; Dr. Drawbridge commented, "Gingival margin #24 not significant as compared to adjacent teeth". (Ex. 3, Ex. 6, Ex. 8)
20. The child does not receive any counselling or mental health treatment, or take any medications for any psychiatric or behavioral condition. (Appellant's testimony)
21. No additional information relevant to whether the child needs orthodontic services was provided by the Appellant during the time the hearing record was held open for her to do so. (Hearing Record)

### **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.

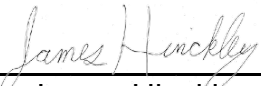
3. Connecticut General Statutes §17b-259b provides (a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate 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. 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.
5. Connecticut General Statutes § 17b-282e provides 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.
6. Connecticut Agencies Regulations §17-134d-35(e)(2) provides in relevant part that [when the existence of a mental disorder is being considered] "the Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his 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 the orthodontic treatment is necessary, and, in this case, will significantly ameliorate the problem".

7. The child's study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment.
8. There was no substantive information regarding the presence of severe deviations affecting the child's oral facial structures.
9. There was no substantive information that the child had any severe mental, emotional or behavioral problems or disturbances directly related to the malocclusion of her teeth.
10. BeneCare was correct when it found that the child did not have malocclusion of her teeth to a degree that met the criteria for severity, or 26 points, as established in state statute, or have the presence of other conditions required by statute to be considered when determining the need for orthodontic services.
11. BeneCare was correct when it denied prior authorization to complete comprehensive orthodontic services for the child as not medically necessary, in accordance with state statute and regulations.

### **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.