

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 # 119666

**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 orthodontia for ██████████, her minor child. The NOA stated that the severity of ██████████ 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 ██████████, 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  
Kate Nadeau, CTDHP Grievance & Appeals Representative  
Eva Young, Interpreter

Dr. Joseph D'Ambrosio, 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. No additional evidence was received. On [REDACTED], 2018, the 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 the child's 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]. (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. On [REDACTED], 2018, BeneCare received a prior authorization request from Dr. [REDACTED] for orthodontics (braces) for the child. (Exhibit 1: Prior Authorization Request)
5. Dr. [REDACTED] submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 27 points, dental models, photographs and X-rays of the child's mouth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2018)
6. Dr. [REDACTED] did not note the presence of severe deviations affecting the child's mouth and underlying structures. Dr. [REDACTED]'s commented that the child had a "class II right class III left asymmetric and crowded malocclusion. The maxillary incisors are excessively proclined as are the lower incisors. The maxillary left cuspid and the mandibular left cuspids are blocked out."(Exhibit 2)
7. On [REDACTED] [REDACTED], 2018, Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed the X Rays, photographs, and models submitted by the treating orthodontist and determined that the child scored 23 points on the Malocclusion Assessment Record. Dr. Monastersky noted

that there were no severe deviations of the mouth and underlying structures. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)

8. On [REDACTED] 2018, BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
9. The child has been seeing the school therapist for approximately three years because he feels badly about himself. Over the course of the three years, he has seen several therapists due to turnover in school staff. He is self-conscious about his height and his teeth. He feels that he is different than the other children. The Appellant is concerned that this will cause the child to become depressed. He has threatened to harm himself with a scissors.(Appellant's testimony)
10. The child has not been diagnosed with depression and does not take any medication. The school therapist had recommended that the child see a mental health professional in addition to the school staff. The Appellant did not follow that recommendation because she does not want the child to take medication. (Appellant's testimony)
11. At the beginning of [REDACTED] 2018, the Appellant reached out to the school staff for documentation of her son's mental health issues for this hearing. She has not received any information thus far. (Appellant's testimony)
12. The child has difficulty brushing his teeth. There are some areas that he cannot reach and they are starting to turn yellow and appear to have a film on them. This has occurred since his last regular dental appointment and his regular dentist is unaware of these problems. The child has a regular dental appointment in [REDACTED] and the Appellant will discuss it with the dentist at that time. (Appellant's testimony)
13. On [REDACTED] [REDACTED] 2018, Dr. Geoffrey Drawbridge BeneCare's orthodontic consultant reviewed the X Rays, photographs, and models submitted by the treating orthodontist and determined that the child scored 25 points on the Malocclusion Assessment Record. Dr. Drawbridge did not note if there were severe deviations of the mouth and underlying structures. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)
14. 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: his score of 25 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 his teeth. (Exhibit 7: BeneCare determination letter of [REDACTED] 2018)

### **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 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 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)]
  6. BeneCare correctly found that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
  7. 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.
  8. BeneCare correctly determined that there was no evidence of emotional issues directly related to the child's teeth.
  9. BeneCare was correct when it determined that orthodontia was not medically necessary for the child and denied the prior authorization for braces.
  10. 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**

The models and X rays of the child's teeth were independently reviewed by two dentists at the dental health partnership. Although all the dentists agree that the child's teeth are crowded and he has an overjet, it does not rise to a level which make braces a medical necessity. In both her hearing request and in her testimony, the Appellant claims that the condition of her child's teeth is affecting his mental health. However, the child is also self-conscious about his height. There was no evidence from a licensed child psychologist or psychiatrist that the condition of the child's teeth is directly affecting him mentally, emotionally or behaviorally.

**DECISION**

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

*Maureen Foley-Roy*

Maureen Foley-Roy  
Hearing Officer

CC: Diane D'Ambrosio, CTDHP  
Rita LaRosa, CTDHP

### **DERECHO A SOLICITAR RECONSIDERACIÓN**

El/La apelante tiene el derecho de presentar una solicitud escrita de reconsideración dentro de los 15 días siguientes a la fecha de envío por correo de la decisión si ha habido un error de hecho o derecho, si se descubre nueva evidencia o si existe otro motivo suficiente. Si se otorga la solicitud para reconsideración, el/la apelante será notificado dentro de los 25 días siguientes a la fecha de solicitud. Si no hay respuesta dentro de los 25 días siguientes quiere decir que la solicitud de reconsideración fue negada. El derecho a solicitar una reconsideración se basa en la sección 4-181a(a) de las leyes generales de Connecticut.

En la solicitud de reconsideración se deben incluir las razones específicas de la solicitud; por ejemplo, indicar qué error de hecho o derecho, qué nueva evidencia o qué otro motivo suficiente existe.

Las solicitudes de reconsideración deben enviarse a: Departamento de Servicios Sociales, Director, Oficina de Asesoría Legal, Regulaciones y Audiencias Administrativas, 55 Farmington Avenue, Hartford, CT 06105.

### **DERECHO A APELAR**

El/La apelante tiene el derecho de apelar esta decisión ante el Tribunal Superior dentro de los 45 días siguientes al envío por correo de la misma o 45 días después de que la agencia rechace una petición para la reconsideración de dicha decisión, sujeto a que la petición de reconsideración haya sido presentada de manera oportuna ante el Departamento. El derecho de apelar se basa en la sección 4-183 de las leyes generales de Connecticut. Para apelar, se debe presentar una petición en el Tribunal Superior. Debe entregarse una copia de la petición en la oficina del fiscal general (Office of the Attorney General), 55 Elm Street, Hartford, CT 06106 o al comisionado del Departamento de Servicios Sociales, 55 Farmington Avenue Hartford, CT 06105. También debe entregarse copia de la petición a todas las partes de la audiencia.

El período de apelación de 45 días puede ampliarse en algunos casos si hay motivo suficiente. La solicitud de ampliación debe presentarse ante el comisionado del Departamento de Servicios Sociales, por escrito, a más tardar 90 días después de enviada la decisión. Las circunstancias de los motivos suficientes son evaluadas por el comisionado o su designado, de conformidad con la sección 17b-61 de las leyes generales de Connecticut. La decisión del organismo de otorgar una ampliación es definitiva y no estará sujeta a revisión o apelación.

La apelación debe presentarse con el empleado administrativo del Tribunal Superior en el distrito judicial de New Britain o en el distrito judicial en el que reside el/la apelante.

