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

[redacted] **2018**
Signature Confirmation

CLIENT No # [redacted]
Request # [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2017, Connecticut Dental Health Partnership (CTDHP) / Benecare Dental Health Plan sent [redacted], (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of the replacement of existing complete upper dentures, indicating that the replacement is not medically necessary under state law.

On [redacted], 2018, the Appellant requested an administrative hearing to contest CTDHP/ Benecare's care denial of a prior authorization for existing complete upper dentures.

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, 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:

[redacted], Appellant
Maggie Jaksina, case manager for the Appellant
Rosario Monteza, CTDHP/Benecare's Representative
Dr. Joseph D'Ambrosio, CTDHP/Benecare's Dental Consultant
Almelinda McLeod, Hearing Officer

The hearing record remained open for the submission of additional documents. On [redacted], 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP/ Benecare's decision to deny the prior authorization for the replacement of the Appellant's existing complete upper dentures for lack of medical necessity was correct in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)

2. The Appellant is [redacted] years old, (DOB- [redacted]) (Exhibit 1A, Dental Claim Form)

3. CTDHP/Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of partial or full dentures. (Hearing Summary)

4. Community Health Center [redacted] CT is the Appellant's treating provider. (Exhibit 1, Prior authorization form)

5. On [redacted], 2016, Medicaid paid for the complete upper dentures for the Appellant. (Exhibit 5 A, Dental Claim)

6. On [redacted] 2018, CTDHP/ Benecare received a prior authorization request from Community Health Center, [redacted] requesting approval of Medicaid coverage for complete upper dentures. (Exhibit 1A, Dental Claim form)

7. The Appellant requested a new set of upper dentures because the dentures paid for by Medicaid did not fit properly in his mouth. (Appellant's testimony)

8. On [redacted] 2018, CTDHP/Benecare denied the prior authorization request for approval of payment for the replacement of upper dentures. The reason specified is that Medicaid has paid for full or partial dentures within last seven (7) years and there was no evidence provided from the primary care or attending physician that the requested service met the medically necessary / medical necessity criteria set forth by the Department. (Exhibit 2, Notice of Action).

9. On [redacted], 2018, the Appellant requested a fair hearing to contest CTDHP/Benecare's decision not to approve the prior authorization and stated that the upper dentures did not fit properly, they were uncomfortable and he has difficulty when chewing food. He did not go back to the dentist to have them adjusted because he lost them somewhere in his house. (Exhibit 3, Request for Administrative Hearing)

10. On [redacted] 2018, CTDHP/ Benecare completed an appeal review. The prior authorization request for approval of payment for the replacement of complete upper dentures was denied. The reason stated is the Medicaid has paid for full upper dentures within 7 years and there was no evidence of medical necessity by the attending physician. (Exhibit 6, Dental Consultant Grievance Review Record)

11. On [redacted] 2018, CTDHP received faxed medical documentation from Stanislaw P. Chorzepa, D.O. The Appellant has been recently diagnosed with a very mild receptive Aphasia (acid reflux/gerd). The problem for him is when he is required him to chew or break down his food into small pieces before swallowing. The Appellant stated that without dentures he is unable to do so, therefore contributing to his ulcer. (Exhibit 8, medical necessity report and Appellant's testimony)

12. The Appellant currently does not have his complete upper dentures and has been approved for the lower dentures. (Hearing record and Appellant's testimony)

13. The dental consultant for this hearing indicated that the medical necessity was not established with the medical documents submitted thus far as the documents do not present how not having dentures directly contributes to his medical condition. (Dental consultant testimony)

14. The Appellant is willing to provide a letter from his attending physician indicating how not having dentures directly affects his acid reflux. (Appellant testimony)

15. On [redacted] 2018, the date of this hearing, Rosario Monteza, the CTDHP representative testified she would accept a submission of that document for further evaluation. (CTDHP testimony)

16. On [redacted] 2018, the Appellant had the results of his colonoscopy and Esophagogastroduodenoscopy and images correlating his ulcer to his teeth. A letter from his doctor was still pending. (Exhibit B)

17. On [redacted] 2018, CTDHP e-mailed a message that Maggie Jaksina, the Appellant's case manager, phoned to withdraw her client from the process because they have decided to proceed with a subsidized fee to have the

work done. CTDHP advised her to send fax this Fair Hearing Officer the withdrawal. (Fair Hearing Exhibit 1)

18. There is no evidence that a letter from the Appellant's physician, indicating that a lack of dentures for the Appellant directly affect his acid reflux, was received for further evaluation by CTDHP consultants.

19. There has been no confirmation received requesting a withdrawal from this administrative hearing from either the Appellant or his representative.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("CGS") states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Tile XIX of the Social Security Act.

2. Section 17b-262-863 (6) of the Connecticut State Agencies (Conn. Agencies Regs.") provide that denture or denture prosthesis means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

3. Section 184 B (VI) of the Medical Services Policy provides that dentures mean artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

4. CGS §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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.

(c) Upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity.

5. Section 184 of the Medical Services Policy provides that for the purposes of this section, dental services are diagnostic, preventive, or restorative procedures, performed by a licensed dentist in a private or group practice or in a clinic; a dental hygienist, trained dental assistance or, or other dental professionals employed by the dentists, group practice or clinic, providing such services are performed within the scope of their profession in accordance with State law. These services relate to:

    I. The teeth and other structures of the oral cavity; and
    II. Disease, injury, or impairment of general health only as it relates to the oral health of the recipient.

6. Section 184 D of the Medical Services Policy provides that payment for dental services is available for all persons eligible for Medicaid, subject to the conditions and limitation that apply to these services.

7. Section 184 E of the Medical Services Policy provides that except for the limitations and exclusions listed below, the Department will pay for the professional services of a licensed dentist or dental hygienist which conform to accepted methods of diagnosis and treatment, but will not pay for anything of an unproven, experimental or research nature or for services in excess of those deemed medically necessary by the Department to treat the recipient’s diagnosis, symptoms or medical history.

8. Conn. Agencies Regs. 17b-262-864 provides that the limitations on coverage of certain non- emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all adults twenty-

one years of age and older and are subject to the prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.

9. Conn. Agencies Regs. 17b-262-864(b)(2) provides that coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows: Prosthodontics:

   A. Coverage of complete and removable partial dentures for functional purposes when there are fewer than 8 posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.

   B. Coverage of removable partial dentures when there are more than 8 posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies;

   C. One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis is acceptable and that he or she understands the department's replacement policy as described in subsection (d) of this section; and

   D. Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed because of misuse, abuse or negligence.

10. CTDHP correctly determined that Medicaid paid for complete upper dentures for the Appellant within the last seven (7) years.

11. CTDHP / Benecare correctly denied the prior authorization because the Appellant does not meet the medical necessity criteria for replacement of his complete upper dentures in accordance with state statutes and regulations.

12. CTDHP/ Benecare correctly issued a copy of the specific guideline or criteria considered in making the determination of medical necessity and issued a notice of denial.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod
Hearing Officer

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

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.