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

Case #: [redacted]
Client #: [redacted]
Request #: [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2018, CT Dental Health Partnership/BeneCare Dental Plans ("CTDHP"), the Dental Administrator for the Department of Social Services (the "Department") sent [redacted] ("the child"), a Notice of Action ("NOA") denying a request for prior authorization for orthodontic treatment indicating it was not medically necessary.

On [redacted] 2018, [redacted] (the "Appellant"), requested an administrative hearing to contest the Department's denial of the prior authorization request for orthodontia.

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, the OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[redacted], Appellant and parent of the child
Magdalena Carter, CTDHP Representative
Dr. Vincent Fazzino, Dental Consultant for the Department via telephone
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP denial of a prior authorization request for approval of Medicaid coverage for the child's orthodontia as not medically necessary was correct and in accordance with state statutes and regulations.

FINDINGS OF FACT

1. The Appellant is the child's mother. (Hearing Record)

2. The child is 12 years old (DOB [redacted]). (Exhibit 1: Prior Authorization Claim Form, Appellant's Testimony)

3. The Connecticut Dental Health Partnership, ("CTDHP") is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)

4. Dr. [redacted], DDS, MS, (the "treating orthodontist") is the child's treating orthodontist. (Exhibit 1)

5. On [redacted], 2018, the treating orthodontist requested prior authorization to complete orthodontic services for the child. (Exhibit 1, Hearing Summary)

6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of twenty (20) points. Also included were models and x-rays of the child's teeth. The treating orthodontist commented, "Impacted tooth number 11." (Exhibit 2: Dr. [redacted] Preliminary Handicapping Malocclusion Assessment Record, Hearing Summary)

7. On [redacted] 2018, Dr. Vincent Fazzino, DMD an Orthodontic Consultant for CTDHP reviewed the dental records and evidence provided by the child's treating orthodontist and assigned him a score of thirteen (13) points on the Malocclusion Severity Assessment. The consultant commented, "Please resubmit case in nine to twelve months." Dr. Fazzino determined that the child's condition did not meet the requirements for being determined medically necessary. (Exhibit 3: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record)

8. On [redacted], 2018, CTDHP sent an NOA to the child advising him that the prior authorization request received from his provider for braces (orthodontics) was denied as not medically necessary, because [(1)] his score of thirteen (13) points on the Preliminary Handicapping Malocclusion Assessment record is less than the required twenty-six (26) points; 2) There is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures and 3) There is no evidence that a diagnostic evaluation has been completed by a licensed child

psychologist or a licensed child psychiatrist indicating that his dental condition is related to the presence of severe mental, emotional, and or behavior problems, disturbances or dysfunctions as defined in the current edition of the Diagnostic Statistical Manual and orthodontic treatment will significantly improve such problems, disturbances or dysfunctions." (Exhibit 4: NOA, [redacted]/18)

9. On [redacted], 2018, the Department received the Appellant's request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing, Hearing Summary)

10. On [redacted], 2018, pursuant to the Appellant's appeal filed on [redacted], 2018, Dr. Geoffrey Drawbridge, DDS, a Dental Consultant for CTDHP conducted an appeal review of the child's dental records. He assigned the child's malocclusion a score of eighteen (18) points. Dr. Drawbridge commented, "Number eleven (11) path of eruption within normal limits, arch length deficient, crowded not impacted." Dr. Drawbridge determined that the child's condition did not meet the requirements for being determined medically necessary. (Exhibit 6: Dr. Drawbridge's Preliminary Handicapping Malocclusion Assessment Record)

11. On [redacted] 2018, CTDHP sent a letter to the Appellant advising her that the child's score of eighteen (18) points was less than the twenty-six points (26) needed to receive coverage for braces. There was no presence found of any deviations affecting the mouth or underlying structures or presence of related mental, emotional and/or behavior problems, disturbances, or dysfunctions. (Exhibit 7: Determination letter, [redacted]/18)

12. On [redacted] 2018, CTDHP requested a third review of the child's records due to the differences in the scores provided by their consultants. Dr. Robert Gange, DDS, a Dental Consultant for CTDHP conducted the appeal review. He assigned the child a score of fourteen (14) points. Dr. Gange commented, "Number 11 appears buccal, too young to call impacted. Resubmit in twelve months to access [*sic*] eruption of number eleven." Dr. Gange determined that the child's condition did not meet the requirements for being determined medically necessary. (Exhibit 8: Dr. Gange's Preliminary Handicapping Malocclusion Assessment Record)

13. The child is not undergoing psychiatric or psychological treatment due to the condition of his mouth. (Appellant's Testimony)

14. The child was receiving speech therapy which ended earlier this year. It is not known if the therapy was due to the condition of the child's teeth. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statures 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. 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. Connecticut General Statutes § 17b-259b(a).

3. 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)]

4. Connecticut General Statues Supplement § 17b-282(e) 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 individuals daily functioning.

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. Because the child’s three Malocclusion Severity Assessments were less than 26 points and there was no substantial evidence presented about the presence of severe deviations affecting his mouth and underlying structures, orthodontic services are not determined as medically necessary.

7. The Appellant failed to establish that even though the child's scores on the three assessments were less than the required 26 points, he suffered from the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions caused by his dental deformity.

8. The child's malocclusion severity does not meet the requirements for medical necessity for approval of his prior authorization request for orthodontic treatment.

9. BeneCare correctly denied the request for orthodontic treatment for the child as it is not medically necessary.

DISCUSSION

State statute provides that Medicaid pay for orthodontic treatment only when it is medically necessary. The Medicaid program uses a Preliminary Handicapping Malocclusion Assessment Record to measure the severity of malocclusion and dentofacial deformity. The child's provider assigned him a score of (20), and three other independently scored assessments assigned him scores of (13), (18) and (14). All scores were less than the requisite (26) points.

The Appellant did not provide substantial evidence showing that the child suffered from severe deviations affecting his mouth and underlying structures. Nor did she provide evidence that the child suffered from the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions caused by the condition of his mouth and that orthodontic treatment would ameliorate his medical condition. CTDHP correctly denied the request for orthodontic treatment.

DECISION

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

Carla Hardy
Hearing Officer

Pc: 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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 06105-3725. 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.