

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

████████████████████
Signature Confirmation

Client ID # ██████████
Request # 122671

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 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 the child’s malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████, 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 July 10, 2018.

On ██████████, 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
████████████████████, the minor child and subject of the hearing
Kate Nadeau, CTDHP Grievance & Appeals Representative
Dr. Brett Zanger, CTDHP Dental Consultant, via telephone conference call

Anita Serpa-Smith, interpreter
Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open at the Appellant's request to provide the Appellant with an opportunity to obtain additional information regarding the child's inability to eat and weight loss from her pediatrician and information from her dentist. No new information or evidence was provided. On [REDACTED], the record closed.

Por favor vea la copia incluida de esta decision en espanol.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for orthodontic services 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 thirteen years old. (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], BeneCare received a prior authorization request from Dr. Desai at Danbury Orthodontics for orthodontics (braces) for the child. (Exhibit 1: Prior Authorization Request)
5. Dr. Desai submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 25 points, dental models and X-rays of the child's mouth. (Exhibit. 2: Malocclusion Assessment Record signed May 3, 2018)
6. Dr. Desai indicated on the scoring sheet that the child had severe deviations affecting the mouth and underlying structures. In the corresponding comment section, Dr. Desai indicated that the child had an anterior crossbite #10. (Exhibit 2)
7. The presence of a crossbite is accounted for on the scoring sheet and would not qualify as a severe deviation, unless it was accompanied by recession of the gums. Gum recession would appear on the models and

none of the three dentist noted that the child suffers from gum recession. (Dr. Zanger's testimony)

8. On [REDACTED], Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed the X Rays and models submitted by the treating orthodontist and determined that the child scored 23 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting the child's mouth or underlying structures. Dr. Monastersky commented that Dr. Desai's comments "had been scored". (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)
9. On [REDACTED], BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
10. On [REDACTED], Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, reviewed the child's records and arrived at a score of 20 points on the Malocclusion Assessment Record. Dr. Drawbridge commented that tooth #10 was noted and that there were no severe deviations affecting the child's mouth and underlying structures. (Exhibit 8: Dr. Drawbridge's Malocclusion Assessment Record)
11. Because of the positioning of the child's teeth, she bites the inside of her mouth and tongue when she is eating, drawing blood. Due to this, the child is reluctant to eat. The child's weight has gone from 140 to 129 lbs. (Appellant and child's testimony)
12. The child is being treated by a psychologist but the psychologist told the Appellant that it would not be appropriate for her to submit any material for the dental hearing. (Appellant's testimony)
13. The child last saw her regular dentist two years ago and his opinion was that the child needed braces. (Appellant's testimony)
14. Because of the crowding of the child's teeth, it is difficult for her to keep her teeth clean. (Appellant's testimony)
15. On [REDACTED], 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: her score of 20 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 her teeth. (Exhibit 9: 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 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.

Because 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, 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.

BeneCare correctly determined that there was no evidence of emotional issues directly related to the child's teeth.

BeneCare correctly determined that orthodontia was not medically necessary because it is not clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease.

Benecare correctly denied the request for prior authorization of orthodontia as not medically necessary.

DECISION

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



Maureen Foley-Roy

Hearing Officer

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

DERECHO DE SOLICITAR RECONSIDERACIÓN

El/La Apelante tiene el derecho a presentar una solicitud de reconsideración por escrito dentro de un período de **15** días a partir de la fecha de envío por correo de la decisión basándose en que hubo un error fáctico o legal, que se ha descubierto nueva evidencia o que existe otra causa suficiente. Si se acepta la solicitud de reconsideración, el/la Apelante será notificado en un plazo de 25 días después de la fecha de la solicitud. El hecho de no recibir respuesta alguna en un plazo de 25 días significa que la solicitud de reconsideración ha sido denegada. El derecho a solicitar una reconsideración se basa en la sección 4-181a (a) de las Leyes Generales de Connecticut.

Las solicitudes de reconsideración deben incluir motivos específicos para la misma; por ejemplo, indicar cuál es el error fáctico o legal, qué nuevas pruebas se encontraron o qué otra causa suficiente existe.

Las solicitudes de reconsideración deben enviarse a: Department of Social Services, Director, Office of Legal Counsel, Regulations and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105-3725.

DERECHO DE APELAR

El/La Apelante tiene el derecho de apelar esta decisión en el Tribunal Superior en un plazo de 45 días a partir del envío por correo de la presente decisión o 45 días después de que la agencia haya denegado una solicitud de reconsideración de la presente decisión, siempre que dicha solicitud de reconsideración haya sido presentada a tiempo 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 ante el Tribunal Superior. Debe entregarse una copia de la petición a la: Office of the Attorney General, 55 Elm Street, Hartford, CT 06106, o al: Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. También debe entregarse una copia de la petición a todas las partes de la audiencia.

El período de apelación de 45 días puede prorrogarse en algunos casos si existe una causa suficiente. La solicitud de prórroga del período de apelación debe presentarse al Comisionado del Departamento de Servicios Sociales por escrito dentro de un período no mayor de 90 días posteriores a la fecha de envío por correo de la decisión. El Comisionado o su delegado evaluarán las circunstancias de causa suficiente de conformidad con la sección 17b-61 de las Leyes Generales de Connecticut. La decisión de la agencia de conceder una prórroga del plazo de apelación es definitiva y no estará sujeta a revisiones ni apelaciones.

Se debe presentar la apelación ante el funcionario del Tribunal Superior del Distrito

Judicial de New Britain o del Distrito Judicial en el que reside el/la Apelante.