

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

[REDACTED] 2018
Signature confirmation

Case: [REDACTED]
Client: [REDACTED]
Request: [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2018, Connecticut Dental Health Partnership (“CTDHP”), the Department of Social Services’ dental subcontractor for HUSKY Health, issued [REDACTED] (the “Appellant”) a *Notice of Action* denying her medical provider’s request for prior authorization of orthodontic treatment for her minor child, [REDACTED] (the “child”).

On [REDACTED] 2018, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On [REDACTED] 2018, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for [REDACTED] 2018. The OLCRAH granted the Appellant’s request for a postponement.

On [REDACTED] 2018, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following attended the proceeding by video and telephone conferencing:

[REDACTED], Appellant
[REDACTED], Appellant’s witness
Rosario Monteza, CTDHP’s representative
Vincent Fazzino, D.M.D., CTDHP’s witness
Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED], 2018.

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly denied the medical provider's request for prior authorization for orthodontic treatment for the child.

FINDINGS OF FACT

1. The child's date of birth is [REDACTED]. (Appellant's witness's testimony)
2. The child has medical coverage through HUSKY Health. (CTDHP's Exhibit 4)
3. The treating orthodontist told the Appellant that her child had reached 28 points. (Appellant's testimony)
4. On [REDACTED] 2018, the treating orthodontist completed a *Preliminary Handicapping Malocclusion Assessment Record*¹ which scored the severity of the child's malocclusion to equal 32 points. (CTDHP's Exhibit 2)
5. On [REDACTED] 2018, CTDHP received a request for prior authorization of orthodontic treatment for the child from [REDACTED] D.D.S. (the "treating orthodontist") of the [REDACTED] (CTDHP's Exhibit 1)
6. Robert Gange, D.D.S. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 3)
7. On [REDACTED] 2018, the first dental reviewer scored the severity of the child's malocclusion to equal 18 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
8. On [REDACTED] [REDACTED] 2018, CTDHP issued a notice denying prior authorization for orthodontic services as the scoring of the severity of the child's malocclusion at 18 points was less than the required 26 points. (CTDHP's Exhibit 4)
9. Geoffrey Drawbridge, D.D.S. (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 6)
10. On [REDACTED], 2018, the second dental reviewer scored the severity of the child's malocclusion to equal 20 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 6)
11. On [REDACTED] 2018, CTDHP notified the Appellant that the child's score of 20 points was less than the 26 points needed to be covered, and that there was no presence

¹ The *Preliminary Handicapping Malocclusion Assessment Record* is also known as the *Salzmann Handicapping Malocclusion Index*.

found of any deviations affecting the mouth or underlying structures. (CTDHP's Exhibit 7)

12. The child has a [REDACTED] 2018 appointment to see a therapist for the first time. (Appellant's testimony)

CONCLUSIONS OF LAW

1. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.
2. The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department. Conn. Gen. Stat. § 17b-261b (a).
3. The Department of Social Services has the authority to determine eligibility for orthodontic services paid by HUSKY Health, a medical assistance program.
4. When an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for preliminary examination of the degree of malocclusion. Conn. Agencies Regs. § 17-134d-35 (e).
5. Orthodontic services will be paid for when: (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations. Conn. Agencies Regs. § 17-134d-35 (a).
6. 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. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation. Conn. Gen. Stat. § 17b-282e.

7. The child's dental records as submitted to CTDHP for review do not objectively support a total score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.
8. 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. Conn. Gen. Stat. § 17b-259b (a).
9. 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. Conn. Gen. Stat. § 17b-259b (b).
10. The child's dental records as submitted to CTDHP for review do not establish that there is a severe deviation affecting the oral facial structures that if untreated, would cause irreversible damage to her teeth and underlying structures.
11. Orthodontic treatment is not medically necessary for the child at this time.
12. CTDHP correctly denied the medical provider's request prior authorization for orthodontic treatment for the child.

DISCUSSION

The Appellant credibly testified that the treating orthodontist and a receptionist at the practice verbally told the Appellant that her child had scored **28 points** on the *Preliminary Handicapping Malocclusion Assessment Record*² on two different occasions.

² (Appellant's testimony)(Hearing request)

The hearing record, however, shows that the same orthodontist submitted a different score—**32 points**—on ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ *Preliminary Handicapping Malocclusion Assessment Record* to CTDHP.

On ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ 2018 and ■ ■ ■ ■ ■ ■ ■ ■ ■ ■, 2018, CTDHP dental reviewers independently scored the severity of the child's malocclusion to equal **18 points** and **20 points** on the *Preliminary Handicapping Malocclusion Assessment Record*, after viewing the child's panorex and models. Their scoring coincides regarding the child's intra-arch deviation (16 points) and differ with respect to the inter-arch deviation (0 vs. 4) and posterior segments (2 vs. 0).

The hearing officer assigned the treating orthodontist's submitted score of **32 points** lesser weight, due in part to the inconsistency in the treating orthodontist's personal representation to the Appellant and professional representation to CTDHP as to the severity of the child's malocclusion. The treating orthodontist scored 20 points with respect to the child's intra-arch deviation, 4 points for the inter-arch deviation, and 8 points to the posterior segments.

The child's dental records as submitted to CTDHP for review do not objectively support a total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

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

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.