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 ID # [redacted]
Request # [redacted]

NOTICE OF DECISION

PARTY

[redacted]
Re: [redacted]
[redacted].
[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2018, BeneCare Dental Plans ("BeneCare") issued a notice of action ("NOA") to [redacted] (the "Appellant") denying a request for prior authorization to complete orthodontic treatment for [redacted], her minor child, indicating that the severity of [redacted]'s malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On [redacted] 2018, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization to complete orthodontic treatment.

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, at the appellant's request, OLCRAH issued a notice rescheduling the hearing for [redacted], 2018.

On [redacted], 2018, in accordance with sections 17b-60, 17b-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
Kate Nadeau, BeneCare's representative
Dr. Greg Johnson, BeneCare's Dental Consultant, via telephone
James Hinckley, Hearing Officer

The hearing record was held open for time for the Appellant to provide additional information in support of her appeal, and for BeneCare to review the information. On [redacted], 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization to complete orthodontic services for [redacted] as not medically necessary was in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [redacted] (the "child"). (Hearing Record)

2. The child is 12 years old (D.O.B. [redacted]) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)

3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)

4. [redacted] Orthodontics is the child's treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)

5. On [redacted] 2018, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for the child. (Summary, Ex. 1)

6. On [redacted], 2018, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 26 points, digital models, photographs and panoramic x-ray films of the child's mouth. The treating orthodontist did not indicate the presence of severe deviations affecting the child's mouth and underlying structures, but commented, "Significant overjet present, high risk for traumatizing front teeth". (Ex. 2: *Preliminary Handicapping Malocclusion Assessment Record* completed by Treating Orthodontist)

7. On [redacted], 2018, Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed the child's digital models, photographs and panoramic radiographs, and arrived at a score of 17 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky indicated that there was no presence of severe deviations affecting the child's mouth and underlying structures and commented, "Provider comments scored". Dr. Monastersky's decision on the application was that the proposed orthodontic

treatment was not approved. (Ex. 3: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Monastersky)

8. On [redacted], 2018, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services for the reasons that the scoring of the child's mouth was less than the 26 points required for coverage, and that there was no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)

9. On [redacted] 2018, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)

10. On [redacted], 2018, Geoffrey Drawbridge, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of the child's digital models, photographs and panoramic radiographs and arrived at a score of 14 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge indicated he found no presence of severe deviations affecting the child's mouth and underlying structures and commented, "Overjet not excessive measured by Salzmann Standard". Dr. Drawbridge's decision on the application was that the proposed orthodontic treatment was not approved. (Ex. 7: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Drawbridge)

11. On [redacted], 2018, BeneCare notified the Appellant that the outcome of the appeal was that its original decision, that orthodontic treatment was not medically necessary for the child, was upheld by the review. (Ex. 8: Appeal Review Decision Letter)

12. The child has a severe case of a dental condition known as enamel hypoplasia which affects many of his teeth; the condition affects both baby and adult teeth, and is characterized by an inadequate or nonexistent coating of protective enamel, resulting in discolored, malformed or misshapen teeth that are extremely susceptible to tooth decay. (Appellant's testimony, Dr. Johnson's testimony)

13. Many of the child's baby teeth with the condition simply "disintegrated", and the condition has required that the child undergo extensive restorative dental care. (Appellant's testimony, Ex. A: Letter from Children's Dental Associates of New London County)

14. Enamel hypoplasia can have numerous causes, and the cause of the child's case of the condition has not been definitively determined. (Appellant's testimony, Dr. Johnson's testimony)

15. On [redacted] 2018, Dr. Geoffrey Drawbridge, a BeneCare orthodontic dental consultant, performed a post-hearing review of the child's need for orthodontic treatment in light of a letter the Appellant brought to the hearing from her child's dentist; in his review Dr. Drawbridge stated, "As measured by the Salzmann Standards, the required minimum 26 points were not achieved as required in order to recommend orthodontic treatment. The additional narrative does not alter the status in this instance". (Ex. A: [redacted], 2018 letter from Children's Dental Associates of New London County, Ex. 9: [redacted], 2018 email from Dr. Drawbridge Re: Post Hearing Review – DMD Letter)

16. On [redacted], 2018, Dr. Geoffrey Drawbridge, a BeneCare orthodontic dental consultant, performed a second post-hearing review of the child's need for orthodontic treatment in light of a letter the Appellant provided from her son's orthodontist post-hearing; in his review Dr. Drawbridge stated, "The attached narrative does not reference any measurable parameters defined in the Salzmann Assessment for a handicapping malocclusion or any severe deviations that if left untreated, would cause irreversible harm to the teeth or underlying structures. The status has not changed". (Ex. B: [redacted] 2018 letter from Child and Adult Orthodontics, Ex. 10: [redacted], 2018 email from Dr. Drawbridge Re: Post Hearing Review – S. Vander Wiede)

17. None of the evidence makes any association between the child's enamel hypoplasia and the need for orthodontic services. (Hearing record)

18. The child sees a social worker, but has never been treated by a psychologist or psychiatrist, or diagnosed with any emotional or mental health condition. (Appellant's testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.

2. Connecticut Agencies Regulations §17-134d-35(a) provides 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.

3. Connecticut General Statutes §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.

4. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.

5. Connecticut General Statutes § 17b-282e 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 individual's daily functioning.

6. Connecticut Agencies Regulations §17-134d-35(e)(2) provides in relevant part that [when the existence of a mental disorder is being considered] "the Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child's mental, emotional, and/or behavior problems, and the orthodontic treatment is necessary, and, in this case, will significantly ameliorate the problem".

7. Applying the scoring standards established for the Salzmann assessment, the child's study models submitted for prior authorization did not show the occlusal deviations necessary to support the required 26 point score on the preliminary assessment.

8. There is no substantive information regarding the presence of severe deviations affecting the child's oral facial structures.

9. There is no substantive information that the child has any severe mental, emotional or behavioral problems or disturbances directly related to the malocclusion of her teeth.

10. BeneCare was correct when it found that the child did not have malocclusion of his teeth to a degree that met the criteria for severity, or 26 points, as established in state statute, or have the presence of other conditions required by statute to be considered when determining the need for orthodontic services.

11. BeneCare was correct when it denied prior authorization to complete comprehensive orthodontic services for the child as not medically necessary, in accordance with state statute and regulations.

DISCUSSION

The child has a challenging dental issue, enamel hypoplasia, that affects many of his teeth, and will undoubtedly cause him difficulties in the future. One of the questions to be answered at this hearing was whether orthodontic treatment for the child would in any way help to alleviate future bad outcomes expected to result from his enamel hypoplasia.

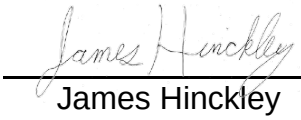
The Appellant's hearing request, and her testimony, focused largely on her son's enamel hypoplasia, but when the treating orthodontist submitted the prior authorization request, he did not mention the condition anywhere in the request. Dr. Johnson, who did not have the child's dental models available to him during the hearing, speculated that the only reason he could think of why orthodontic treatment might help the hypoplasia would be if the child's teeth were maloccluded in such a way that they overlapped and were difficult to clean, and that straightening them would improve dental hygiene and thus prevent some future tooth decay. But Dr. Johnson also testified that completing orthodontic treatment on a child with enamel hypoplasia would present its own difficulties related to attaching orthodontic hardware to teeth that are fragile due to the condition.

The Appellant submitted a letter from her son's pediatric dentist at the hearing, and another letter from her son's orthodontist post-hearing, and each letter was reviewed by

a BeneCare orthodontic consultant. Neither letter claimed that orthodontic treatment would help alleviate the child's enamel hypoplasia, or referenced any dental condition relevant to the determination that had not already been objectively evaluated by the Salzmann Malocclusion Assessments. Medical necessity was not demonstrated by the achievement of a score of 26 points or greater on the Salzmann assessment, and no evidence was provided demonstrating that treatment was medically necessary for any other reason not considered by the assessment.

DECISION

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



James Hinckley
Hearing Officer

cc: 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 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.