

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2018
Signature Confirmation

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

NOTICE OF DECISION

PARTY

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██

PROCEDURAL BACKGROUND

On ██████████, 2018, BeneCare Dental Health Plan (“BeneCare”), administered by the Connecticut Dental Health Partnership, sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for orthodontia for the Appellant’s child ██████████ (“the child”). The NOA informed the Appellant that orthodontia for the child was not medically necessary because the severity of the child’s malocclusion did not meet requirements set in state statute and regulations for medical necessity.

On ██████████, 2018, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████, 2018, the Appellant requested a reschedule for the month of ██████████ 2018.

On ██████████ 2018, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 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]
 [REDACTED]
 Rosario Montessa, BeneCare's Representative
 Dr. Vincent Fazzino, BeneCare's Clinical Consultant, by telephone
 Marci Ostroski, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Appellant until [REDACTED] 2018. On [REDACTED], 2018, the hearing record was reopened by the Hearing Officer to request a third review. BeneCare completed the third review and the record closed [REDACTED], 2018.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for the child's orthodontic services was in accordance with state law.

FINDINGS OF FACT

1. The child (D.O.B. [REDACTED]) is a participant in the Medicaid program, as administered by the Department of Social Services through Benecare. (Hearing Record, Ex. 1: Orthodontia Services Claim Form)
2. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of dental treatment. (Hearing Record)
3. On [REDACTED] 2018, BeneCare sent the Appellant a Notice to the Appellant stating that the request for orthodontia for the child was denied for the reason that the scoring of the child's mouth was less than the 26 points needed for coverage and that there is no substantial information about the presence of severe deviations affecting the mouth and underlying structures. (Ex. 4: Notice of Action for Denied Services or Goods, [REDACTED]/18)
4. On [REDACTED] 2018, the Appellant requested an administrative hearing on the denial of orthodontia. (Ex. 5: Hearing request, [REDACTED]/18)
5. On [REDACTED] 2018, BeneCare conducted a second level appeal review and determined that the request for orthodontia was not medically necessary. (Ex. 7: Malocclusion Severity Assessment, [REDACTED] 18)

6. On [REDACTED] 2018, BeneCare sent the Appellant a second notice advising him that after an appeal review of the request for orthodontia, the denial was upheld. (Ex. 8: Notice of Action, [REDACTED]/18)
7. On [REDACTED] 2018, the Appellant and Benecare participated in an administrative hearing. (Hearing Record)
8. On [REDACTED] 2018, the Hearing Officer reopened the record and requested BeneCare to complete a third review. (Hearing Record, Hearing Officer Ex. AA: Letter to BeneCare, [REDACTED]/18)
9. On [REDACTED] 2018, BeneCare conducted another grievance review. BeneCare determined that the previously denied request for orthodontia is now approved. (Ex. 10: Malocclusion Severity Assessment, [REDACTED]/18)
10. On [REDACTED], 2018 a determination letter was sent to the Appellant notifying him that the request for orthodontia for the child had been approved. (Ex. 11: Determination Letter, [REDACTED]/18)

CONCLUSIONS OF LAW

1. Section 17b-2 & 17b-262 of the Connecticut General Statutes designates that the Department is the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance.
2. Uniform Policy Manual (“UPM”) § 1570.25 (c)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department’s policies and regulations. The Fair Hearing decision is intended to resolve the dispute.

UPM § 1570.25(F)(2) provides that the Department must consider several types of issues at an administrative hearing, including the following:

- a. eligibility for benefits in both initial and subsequent determinations
3. The Department has approved the Appellant’s request for orthodontia for the child thus the Appellant has not experienced any loss or denial of benefits.


The Appellant’s hearing issue has been resolved therefore there is no issue on which to rule. “When the actions of the parties themselves cause a settling of their differences, a case becomes moot.” McDonnell v. Maher, 3 Conn. App. 336

(Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

The authorization for which the Appellant had originally requested the hearing has been approved; there is no practical relief that can be afforded through an administrative hearing.

DECISION

The Appellant's appeal is **DISMISSED AS MOOT**


Marci Ostroski
Hearing Officer

CC: Diane D'Ambrosio, 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 Administrative Hearings and Appeals, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.