

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

██████████ 2018
SIGNATURE CONFIRMATION

REQUEST #124813

CLIENT ID ██████████
CASE ID # ██████████

NOTICE OF DECISION

PARTY

██████████
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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2018, Connecticut Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ the “Appellant”) a Notice of Action (“NOA”) stating that it had denied a prior authorization request for approval of interceptive orthodontic treatment for the Appellant as not medically necessary, pursuant to Section 17b-259b of the Connecticut General Statutes, based on documents provided by his dentist indicating that his malocclusion did not meet the statutory and regulatory requirements for receiving approval of Medicaid payment for interceptive orthodontic treatment.

On ██████████ 2018, the Appellant’s representative ██████████ requested an administrative hearing to contest CTHDP’s denial of the Appellant’s prior authorization request for approval of interceptive orthodontic treatment.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling an administrative hearing for ██████████ 2018 @ 10:00 AM to address CTDHP’s denial of the Appellant’s prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment.

On ██████████ 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 to address CTDHP’s denial of the Appellant’s prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment.

The following individuals were present at the hearing:

██████████ Appellant's Representative/Father
Rosario Monteza, Representative for CTDHP
Dr. Benson Monastersky, Dental Consultant for CTDHP (by telephone)
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for the Appellant is correct and in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a recipient of medical assistance under the Medicaid/HUSKY program. (Appellant Representative's testimony; Hearing Summary)
2. The Appellant is ██████████ years of age (DOB ██████████). (Appellant Representative's testimony)
3. On ██████████ 2018, CTDHP, the Department's dental subcontractor, received a prior authorization request from the Appellant's treating orthodontist for approval of interceptive orthodontic treatment for the Appellant. (Hearing Summary; Dept.'s Exhibit # 1: Dental Claim Form)
4. The Appellant's prior authorization request included a completed Malocclusion Severity Assessment with a total point value of eleven (11) points. The request also included models and x-rays of the Appellant's teeth and underlying structures. (Hearing Summary; Dept.'s Exhibit #2: Malocclusion Severity Assessment)
5. The treating orthodontist indicated that there is a Class III Malocclusion present. (Hearing Summary; Dept.'s Exhibit #2)
6. An Orthodontic Consultant for CTDHP evaluated the dental records and evidence provided by the Appellant's treating orthodontist and found no evidence of severe irregular placement of the Appellant's teeth within his dental arches, no irregular growth or development of his jaw bones, that the Appellant does not meet Phase One treatment guidelines, and that Tooth number ten (10) does not meet the criteria for cross bite. The Consultant also found that the tooth is in edge to edge occlusion, and determined that the Appellant's condition does not meet the criteria for interceptive orthodontic treatment as medically necessary. (Hearing Summary; Dept.'s Exhibit #3: ██████████18 Preliminary Handicapping Malocclusion Assessment Record)

7. CTDHP did not receive evidence from a qualified Psychiatrist or Psychologist specifying the presence of related mental, emotional, and/or behavioral issues, disturbances, or dysfunctions, and did not receive evidence that the requested orthodontic treatment is necessary to ameliorate the Appellant's emotional problems. (Hearing Summary)
8. On [REDACTED] 2018, CTDHP sent a Notice of Action to the Appellant advising him that the prior authorization request received from his provider for approval of interceptive orthodontic treatment was denied as not medically necessary, as the documents provided by his dentist are not complete enough to make a determination of medical necessity, and that interceptive orthodontic treatments are covered only if they are deemed medically necessary. (See Facts # 1 to 7; Hearing Summary; Dept.'s Exhibit # 4: [REDACTED] 18 Notice of Action)
9. The Appellant's Representative provided CTDHP with a note from Dr. [REDACTED] of [REDACTED] Dentistry, a letter from Dr. [REDACTED], and a letter from [REDACTED], LLC. (Hearing Summary)
10. The Appellant's Representative informed CTDHP that the Appellant gets bullied in school, is self-conscious about his Malocclusion, and expressed concerns about the long-term effects to his self-esteem. (Hearing Summary)
11. CTDHP determined that the position of the Appellant's teeth does not qualify for interceptive orthodontic treatment at this time, and his teeth currently pose no threat to his jawbones or attached soft tissue. (See Facts # 1 to 10; Hearing Summary)
12. On [REDACTED] 2018, a second Dental Consultant for CTDHP conducted an appeal review of the Appellant's dental records including the note from Dr. J. [REDACTED] and letters from Dr. [REDACTED] and [REDACTED], found no evidence of severe irregular placement of his teeth within the dental arches, and no irregular growth or development of his jaw bones; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of his mouth and that the requested orthodontic treatment would significantly improve the Appellant's emotional/behavior problems. (Hearing Summary; Dept.'s Exhibit #6: [REDACTED] 18 Preliminary Handicapping Malocclusion Assessment Record)
13. The Dental Consultant for CTDHP did not find any other severe deviations affecting the Appellant's mouth and underlying structures, and commented that the Appellant's condition "does not meet criteria for interceptive orthodontic treatment as noted above." (Dept.'s Exhibit #6)
14. CTDHP determined that Medicaid coverage for interceptive orthodontic treatment is to treat irregular teeth, and based on the presence deviations affecting the mouth and underlying structures and on the presence of related mental, emotional and/or behavioral problems, disturbances, or dysfunctions. There was no evidence of any deviations affecting the Appellant's mouth and underlying structures, or of any

treatments by a licensed psychiatrist or psychologist related to the condition of his mouth. (Hearing Summary)

15. On ██████ 2018, CTDHP sent a determination letter to the Appellant informing him that his provider's request for approval of interceptive orthodontic treatment was once again denied. (Hearing Summary; Dept.'s Exhibit # 8: ██████ 18 Letter from CTDHP)
16. The Appellant does not experience any significant bleeding of his gums. (Appellant Representative's testimony)
17. The Department deems interceptive orthodontic treatment to be medically necessary when an individual shows evidence of deep impinging overbite, provides proof of functional deviation, provides radiograph showing mandibular growth exceeding the growth of the upper jaw, or provides evidence showing cross bite causing gingival recession. (Dept.'s Exhibit #6)
18. The Appellant's malocclusion severity does not meet the statutory definition of medical necessity for receiving approval of his prior authorization request for interceptive orthodontic treatment. (Dept.'s Exhibit #6)
19. The Appellant's treating orthodontist did not prescribe any medication to the Appellant for the relief of pain. (Appellant Representative's testimony)
20. There is no evidence that the Appellant's cross bite is causing gingival recession. (Hearing Record)
21. The Appellant's eating is normal. (Appellant Representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(6) 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. Section 17b-259b of the Connecticut General Statutes states that "Medically necessary" and "medical necessity" defined. Notice of denial of services Regulations. (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.

(b) 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.

(c) Upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity.

3. State regulation provides for the need for orthodontic services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program and states in part that:

When an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for a preliminary examination of the degree of the malocclusion. [Conn. Agencies Regs. § 17-134d-35(e)]

State regulation provides that the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions, as defined in the most current edition of the Diagnostic Statistical Manual of the American Psychiatric Association, and which may be caused by the recipients daily functioning. The Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or a licensed psychologist who has accordingly limited his or her 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 problems. [Conn. Agencies Regs. § 17-134d-35(e)(2)]

4. Section 17b-282e of the Connecticut General Statutes states that “the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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.”
5. CTDHP correctly determined that the Appellant’s dental crowding is not severe enough to qualify for interceptive orthodontic treatment.
6. CTDHP correctly determined that the Appellant’s dental spacing is not severe enough to qualify for interceptive orthodontic treatment.
7. CTDHP correctly concluded that the malocclusion of the Appellant’s teeth does not qualify him for interceptive orthodontic treatment, under the statutory and regulatory guidelines.
8. CTDHP correctly determined that the prior authorization request for interceptive orthodontic treatment for the Appellant is not medically necessary.

DISCUSSION

The undersigned finds that CTDHP was correct in denying the Appellant’s request for approval of interceptive orthodontic treatment. After reviewing the prior authorization request which included x-rays, models, and dental records from the Appellant’s treating orthodontist, CTDHP denied the request based on the statutory definition of medical necessity. Orthodontic services are considered medically necessary when a there is evidence of a severe condition affecting the mouth, if left untreated, would cause irreversible damage, and there are other reasons such services are considered medically necessary.

Upon receiving the Appellant’s request for orthodontic services, a dental consultant for CTDHP reviewed the Appellant’s dental records, and found no evidence of severe irregular placement of the Appellant’s teeth within the dental arches. Consequently, CTDHP denied the Appellant’s authorization request for interceptive orthodontic treatment as not medically necessary.

The regulation provides that the Department shall not pay for procedures in excess of those deemed medically necessary. The Department utilizes the statutory definition of medically necessary to evaluate the Appellant's request for orthodontic services. In the Appellant's situation, since two independent reviews have determined that interceptive orthodontic treatment is not medically necessary, and he has no substantiated mental, emotional, and/or behavioral health issues related to his malocclusion, CTDHP's denial of the Appellant's request for orthodontic services is in accordance with the statutory and regulatory guidelines.

DECISION

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



Hernold C. Linton
Hearing Officer

Pc: **Diane D'Ambrosio**, Connecticut Dental Health Partnership,
P.O. Box 486, Farmington, CT 06034

Rita LaRosa, Connecticut Dental Health Partnership,
P.O. Box 486, Farmington, CT 06034

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. 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.