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

Client ID # [redacted]
Request # [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2018, Connecticut Dental Health Partnership/Benecare Dental Plans ("Benecare") sent [redacted] ("the Appellant") a notice of action denying a request for prior authorization of interceptive orthodontic treatment indicating that the proposed treatment is not medically necessary for her minor child.

On [redacted] 2018, the Appellant requested an administrative hearing to contest Benecare's denial of prior authorization of interceptive orthodontia for her minor child.

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, the Appellant requested the administrative hearing be rescheduled.

On [redacted], 2018, the OLCRAH issued a notice rescheduling the administrative hearing for [redacted], 2018.

On [redacted], 2018, the Appellant requested the administrative hearing be rescheduled.

On [redacted], 2018, OLCRAH issued a notice rescheduling the administrative hearing for [redacted], 2018.

On [redacted], 2018, OLCRAH issued a notice rescheduling the administrative 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 Representative
Dr. Vincent Fazzino, Benecare Dental Consultant, by telephone
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether Benecare's denial of prior authorization through the Medicaid program for the child's interceptive orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

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

2. The child (D.O.B. [redacted]) is a participant in the Medicaid program, as administered by the Department of Social Services ("the Department"). (Exhibit 1: Prior Authorization Request Form).

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

4. [redacted], (the "treating orthodontist") is the child's treating orthodontist (Hearing Summary and Ex. 1: Orthodontia Services Claim Form).

5. On [redacted] 2018, the treating orthodontist requested prior authorization to complete orthodontic treatment for the child. (Hearing Summary, Exhibit 1: Claim Form).

6. On [redacted] 2018, the treating orthodontist submitted to Benecare a Preliminary Handicapping Malocclusion Assessment Record with a score of 13 points, dental models and panorex films of the Appellant's child's mouth. The treating orthodontist noted the presence of other severe deviations affecting the mouth and underlying structures and commented: Severe Crowding, posterior right crossbite, patient needs phase one treatment- upper and lower RPE's. (Hearing Summary, Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/18)

7. RPE refers to a Rapid Palatal Expander. An RPE is a dental appliance placed in a patient's mouth used to correct a cross bite. (Dr. Fazzino's testimony)

8. On [redacted] 2018, Dr. Benson Monastersky, DMD, Benecare's orthodontic dental consultant, independently reviewed the child's models and x-rays. Dr. Monastersky commented, "Does not meet phase one treatment guidelines." Dr. Monastersky found no evidence of deep impinging overbite, no evidence of a functional deviation, no evidence of a class III malocclusion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky did not find evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jaw bones. He found no evidence presented of emotional issues directly related to the child's dental situation and determined that interceptive orthodontic treatment was not medically necessary. (Hearing Summary, Ex. 3: Preliminary Handicapping Malocclusion Assessment Record, [redacted]18)

9. On [redacted] 2018, BeneCare denied the treating orthodontist's request for prior authorization for interceptive orthodontic treatment for the reason that there is no evidence that such treatment is medically necessary. (Exhibit 4: Notice of Action for Denied Services or Goods, [redacted]/18)

10. On [redacted], 2018, Dr. Robert Gange, DDS, BeneCare's orthodontic dental consultant, conducted an appeal review of the child's models and panoramic radiographs. Dr. Gange commented "does not meet phase one interceptive. Resubmit once dentition matures." Dr. Gange found no evidence of deep impinging overbite, no evidence of a functional deviation, no evidence of a class III maloclussion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange found no evidence of severe irregular placement of the teeth within the dental arches and no irregular growth or development of the jawbones. He found no evidence presented of emotional issues related to the child's dental situation

and determined that interceptive orthodontic treatment was not medically necessary. (Hearing Summary, Ex. 7: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/18)

11. The child is not being treated by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances or dysfunctions. (Appellant's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is the designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262].

3. State regulations provide that orthodontic services 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)]

4. State statute 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. [Conn. Gen. Stat.§ 17b-259b]

5. State statutes provide that 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)]

6. Section 17b-282e of the Supplement to the General Statutes provides that the Department of Social Services shall cover orthodontia 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.

7. State regulations define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment. [Conn. Agencies Regs. § 17-134d-35(b)(3)]

8. State regulations provide that prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment. [Conn. Agencies Regs. §17-134d-35(f)(1)]

9. State statute requires 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. [Conn. Gen. Stats. § 17b-259b(c)]

10. The models and x-rays submitted by the treating orthodontist do not clearly support the presence of deviations affecting the mouth and the underlying structures as per state regulations for the authorization of orthodontic treatment.

11. Benecare correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points as established in state regulations and that there was no presence of severe deviations affecting the mouth and underlying structures.

12. Benecare correctly determined that the child does not have any mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to the condition of her teeth.

13. Benecare was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state regulations.

14. Benecare was correct to deny prior authorization because the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

15. Benecare correctly issued a notice of action denying the Appellant's request for interceptive orthodontic treatment for the child.

DECISION

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

Scott Zuckerman
Hearing Officer

Pc: 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 Administrative Hearings and Appeals, 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 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.