

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

██████████, 2018
Signature confirmation

Case: ██████████
Client: ██████████
Request: ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

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

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

On ██████████ 2018, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for ██████████ 2018.

On ██████████ 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 participated in the proceeding by video and telephone conferencing:

████████████████████, Appellant
Rosario Monteza, CTDHP’s representative
Benson Monastersky, D.M.D., CTDHP’s witness
Eva Tar, Hearing Officer

The administrative hearing record closed ██████████, 2018.

STATEMENT OF ISSUE

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

FINDINGS OF FACT

1. The child's date of birth is [REDACTED]. (Appellant's testimony)
2. The child does not have mental health issues. (Appellant's testimony)
3. The child does not eat his food properly; she has to cut it up into small pieces for him. (Appellant's testimony)
4. The child has medical coverage through the HUSKY Health program. (CTDHP's Exhibit 4)
5. CTDHP received a request for prior authorization of interceptive orthodontic treatment from [REDACTED]. (CTDHP's Exhibit 1)(CTDHP's Exhibit 8)
6. On [REDACTED] 2018, an [REDACTED] employee scored the severity of the child's malocclusion to equal 20 points on the *Preliminary Handicapping Malocclusion Assessment Record*.¹ (CTDHP's Exhibit 2)
7. The [REDACTED] employee claimed that the child had deep impinging overbite and a crossbite that with functional shift. (CTDHP's Exhibit 2)
8. Benson Monastersky, D.M.D. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's witness's testimony)(CTDHP's Exhibit 3)
9. On [REDACTED], 2018, the first dental reviewer scored the severity of the child's malocclusion to equal 0 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
10. With respect to interceptive orthodontic services, the points' scoresheet does not have to be filled out. (CTDHP's witness's testimony)
11. With respect to interceptive orthodontic treatment, one or more of the following conditions must be evident: 1) deep impinging overbite where the lower incisors hit palatal tissue behind the upper incisors or the upper incisors hit labial tissue of the lower incisors; 2) functional deviation where there is a midline shift of at least a half lower incisor with unilateral crossbite; 3) class III malocclusion where the lower jaw growth exceeds growth of upper jaw with a negative ANB difference and the 4 upper incisors are in crossbite; 4) gingival recession where an anterior crossbite causes gingival recession of 2 to 3 millimeters as compared to adjoining teeth; 5) severe overjet of more than 9 millimeters; 6) open bite of a minimum of 5 millimeters or severe

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

protrusion of at least 6 millimeters with anterior spacing present; 7) the presence of an anterior impacted tooth. (CTDHP's witness's testimony)(CTDHP's Exhibit 3)(CTDHP's Exhibit 7)

12. The first dental reviewer did not find that the child's overbite was such that the lower incisors hit palatal tissue behind the upper incisors or the upper incisors hit labial tissue of the lower incisors. (CTDHP's Exhibit 3)
13. On [REDACTED], 2018, CTDHP issued a notice denying prior authorization for orthodontic services as the items submitted by the child's dentist provided no evidence that the requested service met the "medically necessary" care conditions set by the Department of Social Services. (CTDHP's Exhibit 4)
14. Robert Gange, D.D.S. (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 7)
15. On [REDACTED], 2018, the second dental reviewer did not assign a point value to the severity of the child's malocclusion on the *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 7)
16. The second dental reviewer dental reviewer did not find that the child's overbite was such that the lower incisors hit palatal tissue behind the upper incisors or the upper incisors hit labial tissue of the lower incisors. (CTDHP's Exhibit 7)
17. On [REDACTED] 2018, CTDHP notified the Appellant that her child did not meet the criteria to receive approval for interceptive orthodontic treatment as there was no presence found of any deviations affecting the mouth or underlying structures. (CTDHP's Exhibit 8)

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. 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).
3. 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).
4. 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).

5. The Appellant did not establish that interceptive orthodontic services was clinically appropriate in terms of type frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease.
6. 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).
7. 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 his teeth and underlying structures.
8. Orthodontic services are not medically necessary for the child at this time.
9. CTDHP correctly denied the medical provider's request prior authorization for interceptive orthodontic treatment for the Appellant's child.

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.