

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

████████████████████
Signature Confirmation

Client ID # ██████████
Request # 128651

NOTICE OF DECISION

PARTY

████████████████████
Re: ██████████

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████████

████████████████████

PROCEDURAL BACKGROUND

On ██████████, BeneCare Dental Plans (“BeneCare”) issued a notice of action (“NOA”) to ██████████ (the “Appellant”) denying a request for prior authorization to complete interceptive orthodontic treatment for ██████████, her minor child, indicating that the severity of the child’s malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On ██████████, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization to complete interceptive orthodontic treatment.

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

On ██████████, at the Appellant’s request due to illness, OLCRAH issued a notice rescheduling the hearing for ██████████.

On ██████████, 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:

The Appellant
Kate Nadeau, BeneCare’s representative

Dr. Vincent Fazzino, BeneCare's Dental Consultant, via telephone
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization to complete interceptive orthodontic treatment for the Appellant's minor child 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 9 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] is the child's treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED], the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for the child. (Summary, Ex. 1)
6. Interceptive orthodontic treatment, also known as Phase One treatment, is early treatment of a limited nature for children who do not have fully developed adult dentition. (Dr. Fazzino's testimony)
7. The child has mixed dentition, which is a mix of deciduous (or "baby" or "primary") teeth and permanent (or "adult" or "secondary") teeth. (Hearing Record, Dr. Fazzino's testimony)
8. Approval for comprehensive orthodontic treatment for children is based on whether the malocclusion of their adult teeth is sufficient to achieve a score of 26 points or greater on a standardized assessment, but approval for interceptive, or Phase One, treatment is based, not on the total point score of an assessment, but rather on the existence of a condition of sufficient severity that early treatment is required. (Dr. Fazzino's testimony)
9. On [REDACTED], BeneCare received from the treating orthodontist a completed *Preliminary Handicapping Malocclusion Assessment Record*, digital models and panoramic x-ray films of the child's mouth. The treating orthodontist

indicated the presence of severe deviations affecting the child's mouth and underlying structures and commented, "Crossbite L, D, C on right and left, Class I, Crowding, bi-max constriction secondary to tongue thrust". (Ex. 2: *Preliminary Handicapping Malocclusion Assessment Record* completed by Treating Orthodontist)

10. The Universal Numbering System identifies adult teeth by number, and baby teeth by letter; the letters referred to in the comments from the treating orthodontist on the assessment (Ex. 2) identify baby teeth. (Dr. Fazzino's testimony, Fact #9)
11. On [REDACTED], Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed the child's digital models and panoramic radiographs and completed a *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky indicated in his answers on the assessment that the child did not have the presence of severe deviations affecting her mouth and underlying structures, and also indicated that the child did not have any of the conditions meeting the criteria for approval of interceptive orthodontic treatment by checking the boxes "No" for each of the seven listed conditions which meet the criteria. Dr. Monastersky commented, "Does not meet Phase One treatment guidelines", and his decision on the application was that the proposed orthodontic treatment was not approved. (Ex. 3: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Monastersky)
12. On [REDACTED], BeneCare denied the treating orthodontist's request for prior authorization to complete interceptive orthodontic treatment for the reason that no evidence was provided that the requested service was medically necessary for the child. (Ex. 4: Notice of Action for Denied Services)
13. On [REDACTED], the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
14. On [REDACTED], Robert Gange, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of the child's digital models and panoramic radiographs and completed a *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Gange indicated in his answers on the assessment that the child did not have the presence of severe deviations affecting her mouth and underlying structures, and also indicated that the child did not have any of the conditions meeting the criteria for approval of interceptive orthodontic treatment by checking the boxes "No" for each of the seven listed conditions which meet the criteria. Dr. Gange's decision on the application was that the proposed orthodontic treatment was not approved. (Ex. 6: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Gange)
15. The child does not have a severe deviation affecting her mouth and underlying structures, or have any of the dental conditions listed on the assessment as

meeting the criteria used by the Department to determine approval for interceptive orthodontic treatment. (Ex. 3, Ex. 6)

16. On [REDACTED], BeneCare notified the Appellant that it had conducted an appeal review that considered all available evidence, and that the outcome of the review was that its original decision, that interceptive orthodontic treatment was not medically necessary for the child, was upheld. (Ex. 8: Appeal Review Decision Letter)
17. The child has been diagnosed with ADHD, but the condition is unrelated to the child's dental condition. (Appellant's testimony)
18. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED]. Therefore, this decision was due not later than [REDACTED]. However, the hearing, which was originally scheduled for [REDACTED], was rescheduled at the request of the Appellant, which caused a 26-day delay. Because this 26-day delay resulted from the Appellant's request, this decision is due not later than [REDACTED]

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 that "(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 in relevant part 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 in relevant part 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 “...the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions, and which may be caused by the recipient’s daily functioning. 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 that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems”.

The requirement to demonstrate occlusal deviations necessary to support a 26 point score on the Salzmann assessment did not apply to the Appellant’s application. The treating orthodontist did not claim that the child qualified for a score of 26 points or greater, and did not request approval for treatment on that basis. Rather, he requested interceptive treatment based on a claim that other condition(s) existed which made treatment medically necessary.

Statute provides for what information must be considered when determining the need for orthodontic services in cases when the score on the Salzmann Handicapping Malocclusion Index is less than the required twenty-six points.

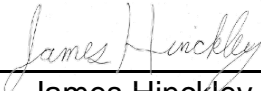
There is no evidence that the child had the presence of severe deviations affecting her oral facial structures, or had any severe mental, emotional or behavioral problems or disturbances directly related to the malocclusion of her teeth.

The child did not have condition(s) which made interceptive orthodontic treatment medically necessary.

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

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.