

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

CLIENT No # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2017 Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for orthodontic treatment for ██████████, her minor child, indicating that severity of child’s malocclusion did not meet the medical necessity requirement.

On ██████████, 2018, the Appellant requested an administrative hearing to contest the decision to deny 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 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:

██████████, Appellant
Rosario Monteza, CTDHP Grievance Mediation Specialist
Dr. Stanley Wolfe, CTDHP Dental Consultant
Almelinda McLeod, Hearing Officer

The hearing record was left open for the submission of documents to be evaluated by CTDHP. On [REDACTED], 2018, the record was closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the CTDHP's decision to deny the prior authorization through the Medicaid program for [REDACTED] orthodontic services is correct because such services are not medically necessary.

FINDINGS OF FACT

1. The Appellant is the mother of [REDACTED] the minor child. (hearing record)
2. [REDACTED] is [REDACTED] years old; date of birth is [REDACTED] is a participant in the Medicaid program as administered by the Department of Social Services. (Hearing Record and Exhibit 1A, Prior Authorization form)
3. Connecticut Dental Health Partnership ("CTDHP") is the dental subcontractor for the Ct Department of Social Services.
4. [REDACTED] Orthodontics, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] is the treating orthodontist. (Exhibit 1A, Prior Authorization form)
5. On [REDACTED], CTDHP received a prior authorization request for braces for [REDACTED] from [REDACTED] [REDACTED] scored 12 points on the Malocclusion Severity Assessment indicating "Other Deviations" and commented that the "patient is being bullied about his teeth" (Exhibit #2 A, Preliminary Handicapping Malocclusion Severity Assessment form)
6. The Malocclusion Severity Assessment record is a test measuring the severity of malocclusion.
7. On [REDACTED] 2017, Dr. Robert Gange (orthodontic dental consultant with CTDHP) evaluated the x-rays and models of [REDACTED] teeth and arrived at a score of 13 on the malocclusion assessment record. He commented " Need psychologist documented report of bullying" (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record)
8. On [REDACTED] 2014, Dr. Gange found no "Other Deviations". There was no evidence of irregular growth or development of the jaw bones; noted there are no evidence of severe deviations affecting the mouth and underlying structures or evidence of emotional distress related to [REDACTED]

- teeth. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record and Exhibit 4A, Notice of Action letter)
9. On [REDACTED] 2017, CTDHP issued a Notice of Action to the Appellant denying orthodontic treatment as not medically necessary since [REDACTED] malocclusion score of 13 was less than the 26 points needed to be covered. [REDACTED] orthodontic request for treatment was also denied as there was no presence found of severe deviations affecting the mouth or underlying structures, which left untreated, would cause irreversible damage to the teeth or underlying structures. There was no evidence of a diagnostic evaluation by a licensed psychiatrist or psychologist related to the condition of [REDACTED] teeth. (Exhibit #4A, Notice of Action)
 10. On [REDACTED], 2017, [REDACTED] issued a letter indicating that the patient's mother expressed concern that [REDACTED] teeth were crooked and that his classmates tease him about his appearance and as result, [REDACTED] is self-conscious of his dental appearance. [REDACTED] recommends orthodontic treatment to improve esthetics and function as well as [REDACTED]s self –image. (Exhibit 7)
 11. On [REDACTED], 2018, the Appellant requested an administrative hearing. (Exhibit 5A, Hearing request)
 12. On [REDACTED], 2018, CTDHP dental consultant, Dr. Vincent Fazzino conducted an appeal review using the models and x-rays of [REDACTED] teeth. The Malocclusion Severity Assessment scored 13 points. He commented that “ Comments have been noted”. Dr. Fazzino did not find evidence of irregular growth or development of the jaw bones. There was no evidence of emotional issues directly related to [REDACTED] dental issues. Dr. Drawbridge decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut's requirement of being medically necessary. (Exhibit #7, Preliminary Handicapping Malocclusion Assessment record)
 13. On [REDACTED], 2018, CTDHP issued a determination notice advising the Appellant that the appeal review was conducted and has recommended that CT Department of Social Services (“CTDSS”) uphold the previously denied request for braces. (Exhibit #8A, Determination Letter)
 14. On [REDACTED] 2018, CTDHP received and reviewed Dr. Michael L. Mark, DMD letter. CTDHP's response was to uphold the previously denied request for braces as the letter did not meet the criteria for medical necessity. (Exhibit 9)

15. On [REDACTED], 2018, (post hearing) CTDHP received from the Appellant a Planning and Placement Team (“PPT”) Report from the [REDACTED] Public Schools for Special Education for [REDACTED] evaluated by [REDACTED] M.S., CCC-SLP. The purpose was to supply additional information for further evaluation. (Exhibit B, PPT Report)
16. On [REDACTED], 2018, CTDHP received and reviewed the PPT report for [REDACTED] CTDHP’s response as that the submitted report did not meet the criteria and therefore did not alter the decision to deny orthodontic treatment. (Exhibit 11)
17. [REDACTED] is in special education for cognitive and speech issues (Appellant’s testimony and Exhibit C, PPT)
18. As of the date of this hearing, [REDACTED] has not been treated by a licensed psychologists or psychiatrist directly related to the condition of his teeth. (Appellant’s testimony)
19. On [REDACTED], 2018, CTDHP submitted post hearing evaluation letter dated [REDACTED] 2018) from [REDACTED]. (a licensed psychologist in private practice with close to forty years of clinical experience including 12 years in residential treatment with severely disturbed children and adolescents.) (Exhibit C, Dr.’s Evaluation letter)
20. [REDACTED]. recommends orthodontia treatment based on an office visit by the Appellant and [REDACTED] on [REDACTED] 2018 and a thorough review of [REDACTED] academic and psychological evaluations dating back to 2013. (Exhibit C)
21. On [REDACTED] in response to the [REDACTED] PhD letter, CTDHP approved orthodontic treatment. (Exhibit 12)

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 program.
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) (1) provides that the Department must consider several types of issues at an administrative hearing, including the following:

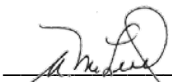
- a. eligibility for benefits in both initial and subsequent determinations

CTDHP has approved the Appellant's request for orthodontic treatment. Thus, the Appellant has not experienced any loss of treatment.

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

DECISION

The Appellant's appeal is Moot.



Almelinda McLeod
Hearing Officer

CC: Diane D'Ambrosio, CTDHP PO Box 486 Farmington, Ct 06032
Rita LaRosa, CTDHP PO Box 486 Farmington, Ct. 06032

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.