

**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

Case: [REDACTED]
Client: [REDACTED]
Request: [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2018, the Connecticut Dental Health Partnership (“CTDHP”) issued [REDACTED] (the “Appellant”) a *Notice of Action* stating that it had denied his medical provider’s request for prior authorization of orthodontic services through the Medicaid/HUSKY Health program for his son, [REDACTED] (the “child”).

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

On [REDACTED] 2018, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for [REDACTED], 2018. The Appellant requested a postponement due to a weather event; the OLCRAH granted the request.

On [REDACTED] 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:

[REDACTED] Appellant
Magdalena Carter, CTDHP’s representative
Brett Zanger, D.M.D., CTDHP’s witness
Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED] 2018.

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly denied prior authorization for approval through the Medicaid/HUSKY Health program for orthodontic services for the Appellant's child.

FINDINGS OF FACT

1. The child's date of birth is [REDACTED]. (Appellant's testimony)
2. The child has a diagnosis of PTSD and Cyclothymic Disorder. (CTDHP's Exhibit 5)(Hearing request)
3. [REDACTED] is the child's psychiatrist. (Appellant's testimony)
4. The child sees his psychiatrist approximately 15 minutes per appointment, every three months, primarily for medication adjustment. (Appellant's testimony)
5. Since July 2016, the child has been receiving therapy at [REDACTED] [REDACTED] [REDACTED] approximately once per week. (Appellant's testimony)(CTDHP's Exhibit 5)(Hearing request)
6. [REDACTED], LMSW, is the child's primary therapist at [REDACTED]. (CTDHP's Exhibit 5)(Hearing request)
7. [REDACTED], LCSW, is the supervisor of the child's primary therapist at [REDACTED]. (CTDHP's Exhibit 5)(Hearing request)
8. The child is missing adult tooth #10. (CTDHP's Exhibit 3)(CTDHP's Exhibit 6)
9. The child has a "peg tooth." (Appellant's testimony)
10. A "peg tooth" is a malformed tooth that may be half- or two-thirds the size of a normal tooth. It usually presents as a narrower tooth. (CTDHP's witness's testimony)
11. The child has medical coverage through the Medicaid/HUSKY Health program. (Appellant's testimony)(CTDHP's Exhibit 4)
12. CTDHP/Benecare is a dental subcontractor for the Medicaid/HUSKY Health program. (CTDHP's representative's testimony)

13. On [REDACTED] 2018, CTDHP received a request for prior authorization of orthodontia for the child from the office of [REDACTED]. (CTDHP's Exhibit 1)
14. The [REDACTED] 2018 request included an unsigned *Preliminary Handicapping Malocclusion Assessment Record*.¹ (CTDHP's Exhibit 1)
15. Robert Gange, D.D.S. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 3)
16. On [REDACTED] 2018, the first dental reviewer scored the severity of the child's malocclusion to equal 10 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
17. On [REDACTED], 2018, CTDHP issued a notice denying prior authorization for orthodontic services as the scoring of the severity of the child's malocclusion at 10 points was less than the required 26 points, and there was not additional substantial information about the presence of deviations affecting the mouth and underlying structures, which, if left untreated, would cause irreversible damage to the teeth and underlying structures. (CTDHP's Exhibit 4)
18. The Appellant submitted to CTDHP a [REDACTED] 2018 opinion authored by the child's primary therapist at [REDACTED] and that individual's supervisor. (CTDHP's Exhibit 5)(Hearing request)
19. On [REDACTED] 2018, the child had his most recent appointment with his psychiatrist. (Appellant's testimony)
20. Geoffrey Drawbridge, D.D.S., (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 6)
21. On [REDACTED], 2018, the second dental reviewer scored the severity of the child's malocclusion to equal 10 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 6)
22. The second dental reviewer concluded that the [REDACTED] 2018 opinion did not meet the criteria required to grant approval of prior authorization for orthodontic services. (CTDHP's Exhibit 6)
23. On [REDACTED], 2018, CTDHP notified the Appellant that the child's score of 10 points was less than the 26 points needed to be covered; there was no presence found of any deviations affecting the mouth or underlying structures; and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child's teeth. (CTDHP's Exhibit 7)

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

24. As of [REDACTED] 2018, the Appellant had not asked the child's psychiatrist to complete an evaluation with respect to the child's potential orthodontic treatment. (Appellant's testimony)

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. 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. 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. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation. Conn. Gen. Stat. § 17b-282e.

7. If the total score is less than [twenty-six (26)] points 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 recipient's 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 that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems. Conn. Agencies Regs. § 17-134d-35 (e)(2).
8. The child's dental records as submitted to CTDHP for review do not support a total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.
9. 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.
10. It is reasonable to conclude from the hearing record that a licensed child psychiatrist or a licensed child psychologist has not completed: 1) an evaluation that clearly and substantially documents how the child's peg tooth or dentofacial deformity is related to the child's mental, emotional, and/or behavior problems; and 2) the recommendation that orthodontic treatment is necessary and will significantly ameliorate those problems.
11. Orthodontic services are not medically necessary for the child at this time.

12. CTDHP correctly denied prior authorization for approval through the Medicaid/HUSKY Health program for orthodontic services for the Appellant's child.

DISCUSSION

Two CTDHP dental consultants assessed the severity of the child's malocclusion and independently arrived at scores of 10 points on the *Preliminary Handicapping Malocclusion Assessment Record*.² The severity of the child's malocclusion does not meet the criteria of 26 points, as set in statute for prior authorization of orthodontia.

If the score is less than 26 points, the Department considers additional information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions. State regulations require that the Department only consider cases where a diagnostic evaluation has been performed by a licensed child psychiatrist or a licensed child psychologist. The child psychiatrist's or child psychologist's evaluation must clearly and substantially document: 1) how the dentofacial deformity is related to the child's mental, emotional, and/or behavior problems; 2) that orthodontic treatment is necessary; and 3) that orthodontic treatment will significantly ameliorate these problems.

The Appellant submitted a [REDACTED] 2018 evaluation signed by the child's primary therapist and that individual's supervisor. Neither individual is a licensed child psychiatrist or a licensed child psychologist.

The Appellant did not establish that his child met the criteria for prior authorization of orthodontic services.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

Cc: Magdalena Carter, CTDHP
Diane D'Ambrosio, CTDHP
Rita LaRosa, CTDHP

² The [REDACTED] 2018 request for prior authorization included an unsigned *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 1)

The hearing officer assigns no evidentiary weight to an assessment authored by an unidentified individual of unknown medical background.

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.