

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

██████████, 2018  
Signature Confirmation

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

NOTICE OF DISMISSAL

PARTY

██████████  
██████████  
██████████

On ██████████ 2017, BeneCare Dental Plans (“BeneCare”), administered by the Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia services for ██████████, his minor child, indicating that the severity of ██████████ malocclusion did not meet the medical necessity requirement to approve the proposed treatment, and that orthodontia was not medically necessary.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia for ██████████

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Appellant requested to reschedule the hearing.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

The Appellant did not appear for the ██████████, 2017, scheduled hearing.

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, 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  
 [REDACTED], Minor child  
 [REDACTED], Interpreter (Spanish Language)  
 Magdalena Carter, CTDHP Grievance & Appeals Representative  
 Dr. Jonathan Gorman, Dental Consultant for CTDHP, via telephone  
 Shelley Starr, Hearing Officer

The hearing record remained open for the submission of additional evidence from the Appellant and for the Department’s review and response. On [REDACTED] 2018, the Department provided a response. On [REDACTED], 2018, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether BeneCare’s denial of prior authorization through the Medicaid program for [REDACTED] orthodontic services was in accordance with state statute and regulations.

### **FINDINGS OF FACT**

1. The Appellant is the father of [REDACTED]. (Hearing Record; Appellant’s Testimony)
2. [REDACTED] is [REDACTED] old ([REDACTED]) and is a participant in the Medicaid program, as administered by the Department of Social Services (the “Department”). (Hearing Record; Exhibit 1: Claim Form)
3. Benecare is the Department’s contractor for reviewing dental provider’s requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] is [REDACTED] treating orthodontist (the “treating orthodontist”). (Exhibit 1: Claim Form )

5. On [REDACTED] 2017, the treating orthodontist requested prior authorization to complete orthodontic services for [REDACTED]. (Hearing Summary; Exhibit 1: Claim Form received [REDACTED] 2017)
6. On [REDACTED] 2017, Benecare denied the treating orthodontist's request for prior authorization to complete orthodontic services as not medically necessary. [REDACTED] teeth scored less than the 26 points needed for coverage, her teeth are not crooked enough to qualify for braces and they currently pose no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action dated [REDACTED] [REDACTED] 2017)
7. On [REDACTED] 2017, the Department received the Appellant's request for an administrative hearing.
8. On [REDACTED] 2018, an administrative hearing was held. The hearing record was held open for the submission of additional evidence from the Appellant and for time for the Department's review and response. On [REDACTED] 2018, the Department provided a response. On [REDACTED], 2018, the hearing record closed. (Hearing Record; Exhibit 10: Department's Response)
9. On [REDACTED], 2018, the Department reviewed the additional evidence submitted by the Appellant and overturned the previous denial of orthodontia decision. (Ex 10: Department's Response)
10. On [REDACTED], 2018, the Department sent the Appellant a notice advising that the Appellant's request for prior authorization to complete orthodontic services for [REDACTED] was approved. (Exhibit 10: Department's response; Approval of Orthodontia notice dated [REDACTED] 2018)

### **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. Regulations of Connecticut State Agencies § 17-134d-35(a) provides that orthodontic services provided for individuals less than 21 years of age will be paid for when provided by qualified dentist and deemed medically necessary as described in these regulations.
3. 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)(2) 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

On [REDACTED], 2018, the Department has approved the Appellant's request for orthodontic services for his child. Thus, the Appellant has not experienced any loss of benefits.

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

### **DECISION**

The Appellant's appeal is **Dismissed** as moot.

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Shelley Starr  
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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

### **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.