

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

**NOTICE OF DECISION**  
**PARTY**

██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2017, BeneCare Dental Plans (“BeneCare”) administered by the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of orthodontia services for his minor child, ██████████ indicating that the severity of ██████████ malocclusion did not meet the requirements in state law 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 ██████████ 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, 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:

██████████, Appellant  
Elaine Spinato, CTDHP Grievance & Appeals Representative  
Dr. Vincent Fazzino, Dental Consultant for CTDHP, via telephone  
Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Appellant and to allow time for the Department to review and respond. On [REDACTED], 2018, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue 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 and Appellant's Testimony)
2. Adam is [REDACTED] old ([REDACTED]) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). ( Exhibit 1: Claim Form received [REDACTED], 2017; Appellant's Testimony)
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"). (Hearing Summary, Exhibit 1: Claim Form received N [REDACTED], 2017)
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 received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 20 points, dental models and x-rays of [REDACTED] mouth. The orthodontist commented "Severe overjet." (Exhibit 2: [REDACTED] Malocclusion Severity Assessment Record received [REDACTED], 2017)
7. On [REDACTED], 2017, Dr. Benson Monastersky DMD, BeneCare's orthodontic dental consultant, independently reviewed [REDACTED] models and x-rays, and arrived at a score of 18 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky indicated that there is no presence of other severe deviations affecting the mouth and underlying structures. Dr. Monastersky commented "Comment is scored." (Exhibit 3: Dr. Monastersky's Assessment dated [REDACTED], 2017)

8. On [REDACTED] 2017, BeneCare denied the treating orthodontist's request for prior authorization of orthodontic services as not medically necessary. [REDACTED] teeth scored less than the 26 points needed for coverage, his 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 for Denied Services or Goods dated [REDACTED] 2017)
  9. On [REDACTED] 2017, the Department received the Appellant's request for an administrative hearing on the denial of braces for [REDACTED]. (Exhibit 5: Hearing Request; received [REDACTED] 2017)
  10. On [REDACTED] [REDACTED], 2017, Dr. Robert Gange, DDS, BeneCare's dental consultant, independently conducted an appeal review using [REDACTED] models and x-rays and arrived at a score of 17 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange indicated that [REDACTED] does not have the presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 6: Dr. Gange's Assessment, dated [REDACTED] 2017)
  11. On [REDACTED] 2018, BeneCare notified the Appellant that [REDACTED] appeal review score of 17 points did not meet the requirements for orthodontic treatment and that such treatment was not medically necessary. (Exhibit 8: Letter Regarding Orthodontic Services; dated [REDACTED] 2018)
  12. [REDACTED] has no problems chewing or swallowing his food. (Appellant's Testimony)
  13. [REDACTED] has no pain or infection of the mouth. (Appellant's Testimony)
  14. [REDACTED] is involved in treatment at the [REDACTED] for treatment of Attention deficit hyperactivity disorder (ADHD). (Exhibit 9: Post Hearing letter dated [REDACTED], 2018, from [REDACTED], [REDACTED])
- [REDACTED] is not receiving treatment by a qualified psychiatrist or psychologist for related mental, emotional or behavior problems, disturbances or dysfunctions. (Hearing Record; Exhibit 9: Post Hearing letter dated [REDACTED], 2018, from [REDACTED])
16. [REDACTED] is social at school who is involved in school activities. (Appellant's Testimony)

## **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) provide that orthodontic services for 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 (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 General Statutes § 17b-259b(b) provides that clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.
5. Connecticut General Statutes Supplement § 17b-282(e) provides 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 individuals daily functioning.

6. Connecticut Agencies Regulations § 17-134d-35(b)(3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.
7. Connecticut Agencies Regulations § 17-134d-35(e)(2) provides in relevant part that [when a mental disorder is being considered] “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 the orthodontic treatment is necessary, and, in this case, will significantly ameliorate the problems.”
8. Connecticut Agencies Regulations §17-134d-35(f) provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.
9. ██████ study models submitted for prior authorization do not show severe occlusal deviations affecting the mouth and underlying structures; and do not meet the requirement of a 26 point score on the preliminary assessment.
10. ██████ has not been recommended by a licensed psychiatrist or psychologist, that he receive orthodontic treatment to significantly ameliorate mental, emotional, and or behavior problems, disturbances or dysfunctions.
11. BeneCare was correct to deny prior authorization because ██████ does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.
12. On ██████ 2018, Benecare correctly issued the Appellant a notice of action denying the Appellant’s appeal review request for orthodontia treatment for ██████.

### **DISCUSSION**

State regulations provide that when a child is correctly scored with at least 26 points on a Preliminary Handicapping Malocclusion Assessment Record, a test measuring severity of malocclusion and dentofacial deformity, the Medicaid program will authorize and pay for orthodontic treatment. The treating orthodontist scored the malocclusion of [REDACTED] teeth to equal 20 points. Two dentists in blind reviews independently assessed [REDACTED] models and x-rays and scored the malocclusion to equal 18 and 17 points. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

The Appellant did not provide any other evidence of a substantial nature to indicate the presence of other severe deviations affecting the mouth and underlying structures. Although [REDACTED] is currently involved in treatment at the [REDACTED] for diagnosis of attention deficit hyperactivity disorder, [REDACTED] is not receiving any treatment by a licensed psychiatrist or psychologist and it has not been recommended that he receive orthodontic treatment to significantly ameliorate his mental, emotional, and or behavior problems, disturbances or dysfunctions.

The undersigned hearing officer finds that [REDACTED] malocclusion did not meet the requirement for severity, or 26 points, as established in state regulations to allow the Medicaid program to pay for orthodontic services.

### **DECISION**

The Appellant's appeal is **DENIED.**

  
\_\_\_\_\_  
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 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.

