

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

Ms. ██████████
Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2017, BeneCare Dental Health 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 for ██████████ minor child. The NOA stated that the severity of the child’s malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

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

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████ 2017, the Appellant contacted OLCRAH and requested a continuance of the hearing.

On ██████████, 2017, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2018.

On [REDACTED] 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 presented at the hearing:

[REDACTED], the Appellant
 [REDACTED], the Appellant's husband and father of [REDACTED] the minor child
 Karina Reninger, CTDHP Grievance & Appeals Representative
 Dr. Joseph D'Ambrosio, CTDHP Dental Consultant, via telephone conference call
 Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for orthodontic services through the Medicaid program for the Appellant's minor child was correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED] ("the child") whose date of birth is [REDACTED]. [REDACTED] is eleven years old. (Hearing record and Exhibit 1: Dental Claim form)
2. The child is a participant in the Medicaid program, as administered by the Department of Social Services ("DSS"). (Hearing Record)
3. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On [REDACTED] 2017, BeneCare received a prior authorization request from [REDACTED] for orthodontics (braces) for the child. (Exhibit 1: Prior Authorization Request)
5. [REDACTED] submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 25 points, dental models, photographs and X-rays of the child's mouth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2017)
6. [REDACTED] commented "[3 blocked out/extraction needed". (Exhibit 2)
7. On [REDACTED] 2017, Dr. Vincent Fazzino, BeneCare's orthodontic consultant, reviewed the X Rays, photographs and models submitted by the treating orthodontist and determined that the child scored 17 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no severe deviations of the mouth and underlying structures. Dr. Fazzino

commented that “tooth #11 should continue to develop buccally. Please resubmit case in 9-12 months. (Exhibit. 3: Dr. Fazzino’s Malocclusion Assessment Record)

8. On [REDACTED], 2017, BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
9. On [REDACTED] 2017, Dr. Gregory Drawbridge, DDS, consultant for BeneCare, independently reviewed the child’s records and arrived at a score of 15 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting the child’s mouth and underlying structures. Dr. Drawbridge commented that “#11 patn of eruption labial and within normal arch length Negative-crowded (not impacted).(Exhibit 6: Dr. Drawbridge Malocclusion Assessment Record)
10. Tooth #11 and [3 are the same tooth. (Dr. D’Ambrosio’s testimony)
11. “Labial” and “buccally” are synonymous for moving forward into correct position.(Dr. D’Ambrosio’s testimony)
12. Both Dr. Fazzino and Dr. D’Ambrosio believe that tooth #11 is not impacted and does have enough room to come forward and drop into the correct position. (Exhibits 3 and 6)
13. The child does not see a mental health counselor for any reason. (Child’s father’s testimony)
14. On [REDACTED], 2017, BeneCare issued a letter to the Appellant notifying her that the dentist’s request for approval of braces for her child was denied for the following reasons: her score of 15 points was less than the 26 points needed for coverage; there was no presence found of any deviations affecting the mouth or underlying structures; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the conditions of his teeth. (Exhibit 7: BeneCare determination letter of [REDACTED], 2017)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. State regulations provide 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. For the purposes of the administration of the medical assistance programs by the Department, "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)]
4. 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. [Sec. 17b-282e of the Supplement to the General Statutes]
5. State regulations 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. [Conn. Agencies Regs. §17-134d-35(f)]

6. BeneCare correctly found that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
7. BeneCare correctly determined that the child did not have a deviation of such severity that it would cause irreversible damage to the teeth and underlying structures if left untreated.
8. BeneCare correctly determined that there was no evidence of emotional issues directly related to the child's teeth.
9. BeneCare was correct when it determined that orthodontia was not medically necessary for the child and denied the prior authorization for braces.

DISCUSSION

The regulations clearly state that Medicaid will pay for braces when a child scores 26 or more points on the Salzmann Handicapping Malocclusion Assessment record. The child's own provider does not score the child's teeth to that level. There is one tooth that is causing a specific problem right now but both of the consulting dentists believe that the tooth will drop into the correct position in time. One of the consultants suggested that the case be resubmitted in 9-12 months. The Dental Health Partnership was correct in denying braces for the child as there is no evidence that orthodontia is medically necessary for her at this time.

DECISION

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

Maureen Foley-Roy
Hearing Officer

CC: Diane D'Ambrosio, CTDHP
Rita LaRosa, CTDHP

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.

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.