

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

██████████
Re: ██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment for ██████████, her minor child, indicating that the severity of ██████████ malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

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

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
- Rosario Monteza, BeneCare’s representative
- Dr. Vincent Fazzino, BeneCare’s Dental Consultant, via telephone
- James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization to complete interceptive orthodontic treatment for ██████ as not medically necessary was in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, ██████. (Hearing Record)
2. ██████ is ██████ years old ██████ and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. *MBraces LLC* is ██████'s treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On ██████, 2017, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for ██████. (Summary, Ex. 1)
6. Interceptive orthodontic treatment is limited, rather than comprehensive, treatment, and approval is dependent not on the overall condition of the teeth but rather on the severity of the specific condition that the interceptive treatment is aimed at treating. (Dr. Fazzino's testimony)
7. On ██████, 2017, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* for ██████ with a score of 16 points. Included were models and panoramic x-ray films of ██████'s mouth. The assessment included the comment, "Patient has nine millimeters overjet with severe open bite due to thumb sucking habit. Patient needs interceptive orthodontic treatment/Phase One. Thank you". The treating orthodontist also checked two of the boxes in the section which lists the criteria for approval of interceptive orthodontic treatment, the box for "Severe overjet" and the box for "Open Bite". (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record completed by Treating Orthodontist)
8. On ██████, 2017, Vincent Fazzino, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed ██████'s models and x-ray films and concluded on a *Preliminary Handicapping Malocclusion Assessment Record* that ██████ did not have the presence of severe deviations affecting her mouth and underlying structures. Dr. Fazzino did not provide a total score for the assessment but commented, "Overjet must be greater than 9mm". Dr. Fazzino also checked each of the seven boxes "No" in the section which lists the criteria

for approval of interceptive orthodontic treatment, including the box for “Severe overjet of more than 9 mm” and the box for “Open Bite – Minimum of 5 millimeters, or severe protrusion of at least 6 millimeters with anterior spacing present”. (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Fazzino)

9. On [REDACTED], 2017, BeneCare denied the treating orthodontist’s request for prior authorization to complete interceptive orthodontic treatment for the reason that there was no evidence that the requested treatment was medically necessary for [REDACTED]. (Ex. 4: Notice of Action for Denied Services)
10. On [REDACTED], 2017, the Department received the Appellant’s request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
11. On [REDACTED] [REDACTED] 2017, Geoffrey Drawbridge, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of [REDACTED]’s models and panoramic radiographs. Dr. Drawbridge concluded on a *Preliminary Handicapping Malocclusion Assessment Record* that [REDACTED] qualified for a score of 16 points and that she did not have the presence of severe deviations affecting her mouth and underlying structures. Dr. Drawbridge commented, “Does not meet criteria for interceptive treatment as noted above. (Etiology does not apply)”, and checked each of the seven boxes “No” in the section which lists the criteria for approval of interceptive orthodontic treatment. (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Drawbridge)
12. On [REDACTED] 2017, BeneCare notified the Appellant that the outcome of the appeal review was that its original decision, that interceptive orthodontic treatment was not medically necessary for [REDACTED], was upheld. (Ex. 8: Appeal Review Decision Letter)
13. BeneCare’s orthodontic consultants are trained and experienced in the scoring methodology used for the *Preliminary Handicapping Malocclusion Assessment Record*; to determine whether [REDACTED]’s overjet exceeded 9mm, the consultants would have used a periodontal probe marked in 1 millimeter increments to take precise measurements, using her cast models, of the distance from the front of her lower incisors to the back of her upper incisors, and would have made similar measurements to determine the degree of severity of her open bite. (Dr. Fazzino’s testimony)
14. The degree of knowledge and experience the treating orthodontist has with the scoring methodology of the *Preliminary Handicapping Malocclusion Assessment Record* is unknown. (Hearing Record)
15. [REDACTED] was diagnosed with ADHD at one time, but is not currently being treated for any mental health issues, and does not have any mental or emotional issues directly related to the condition of her teeth. (Appellant’s testimony)

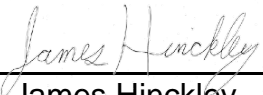
CONCLUSIONS OF LAW

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) provides 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.
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-282e 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 individual's daily functioning.

5. The requirement of a score of twenty-six points or greater on the Salzmann Handicapping Malocclusion Index was not relevant to the determination of whether interceptive treatment was medically necessary for ██████; her treating orthodontist did not claim that she qualified for a score of 26 points or more, and did not apply for prior authorization for treatment based on her total point score.
6. BeneCare was correct when it determined that ██████ did not have any type of malocclusion that was of such severity that immediate treatment was required to correct the condition; two of BeneCare's orthodontic consultants who independently evaluated and performed measurements against ██████'s cast models determined that she had neither overjet nor open bite of such degree of severity that it met the criteria to qualify for interceptive orthodontic treatment.
7. BeneCare was correct when it found that there was no substantive information regarding the presence of severe deviations affecting ██████'s oral facial structures, or regarding the presence of any severe mental, emotional or behavioral problems or disturbances directly related to the malocclusion of her teeth.
8. BeneCare was correct when it found that ██████ did not meet the criteria for interceptive orthodontic treatment, or have the presence of other conditions required by statute to be considered when determining the need for orthodontic services.
9. BeneCare was correct when it denied prior authorization for interceptive orthodontic treatment for ██████ as not medically necessary, in accordance with state statute and regulations.

DECISION

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



James Hinckley
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.