

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

██████████ 2018
Signature confirmation

Case: ██████████
Client: ██████████
Request: 113396

NOTICE OF DECISION

PARTY

██████████
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PROCEDURAL BACKGROUND

On ██████████, 2017, the Connecticut Dental Health Partnership (“CTDHP”), the dental administrator for the Department of Social Services, issued ██████████ (the “Appellant”) a *Notice of Action for Denied Services or Goods* stating that it had denied her dentist’s request for approval of the replacement of an existing set of partial or full dentures.

On ██████████ 2018, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to contest the CTDHP’s action.

On ██████████ 2018, the OLCRAH issued a notice to the Appellant scheduling an 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, the OLCRAH held an administrative hearing. The following individuals participated:

██████████ Appellant
Kate Nadeau, CTDHP’s representative
Greg Johnson, D.M.D., CTDHP’s witness (by telephone)
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 payment through the HUSKY Health/Medicaid program to replace the Appellant's partial dentures.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old. (Appellant's testimony)
2. The Appellant is 5'9" and weighs 150 pounds. (Appellant's testimony)
3. Within the last six years, the Appellant has gained 25 pounds. (Appellant's testimony)
4. The Appellant has medical coverage through the HUSKY Health/Medicaid program. (CTDHP's Exhibit 2)
5. CTDHP is the Department's dental administrator. (CTDHP's representative's testimony)
6. On [REDACTED], 2012, the HUSKY Health/Medicaid program paid \$3,822.32 (total) for a partial upper denture [REDACTED] and a partial lower denture [REDACTED] for the Appellant. (CTDHP's Exhibit 4)
7. The Appellant's current dental provider is Guiliana Novoa, D.M.D. of Optimus Health Care, Inc. (CTDHP's Exhibit 1)
8. On [REDACTED], 2017, the Appellant's current dental provider submitted a request to CTDHP for prior authorization of HUSKY Health/Medicaid payment for an upper partial denture [REDACTED] and a lower partial denture [REDACTED] for the Appellant. (CTDHP's Exhibit 1)
9. On [REDACTED], 2017, CTDHP issued the Appellant a *Notice of Action for Denied Services or Goods* stating that it had denied her dentist's request from her dentist for approval of the replacement of existing partial or full dentures as there was evidence that the Medicaid program had paid for full or partial dentures within the last seven years and there was no evidence provided from her primary care or attending physician that the requested service met the medical necessity care conditions set by the Department. (CTDHP's Exhibit 2)
10. The Appellant's current dental provider has not returned CTDHP's telephone calls requesting clarification. (CTDHP's representative's testimony)

11. On [REDACTED] 2018, CTDHP completed a second review of the Appellant's current dental provider's request for prior authorization. (CTDHP's Exhibit 5)
12. On [REDACTED], 2018, CTDHP issued a notice to the Appellant stating that it was upholding its prior denial as replacement of existing partial or full dentures is not paid by plans more than one in a seven-year period from the date for which benefits for this services were previously paid and that there had been no evidence of medical necessity provided to CTDHP from the attending physician. (CTDHP's Exhibit 6)
13. The Appellant is partially edentulous ("lacking teeth"). (Appellant's Exhibit A)
14. The Appellant has gotten by without using her dentures since [REDACTED] 2017. (Appellant's testimony)
15. On [REDACTED], 2018, the Appellant still possessed her dentures. (Appellant's testimony)
16. The Appellant's dentures stopped fitting properly. (Appellant's testimony)
17. The Appellant attributes her weight gain as the reason that her dentures stopped fitting properly. (Appellant's testimony)
18. It is not usually the case that when an individual gains weight that the partials stop fitting. (CTDHP's witness's testimony)
19. The Appellant wants to replace her dentures so that she can smile for job interviews. (Appellant's testimony)
20. In the period between [REDACTED], 2018 and [REDACTED], 2018, the Appellant lost her dentures. (Appellant's Exhibit A)
21. On or around [REDACTED], 2018, the Appellant submitted an undated letter from Kris Kotsay, D.M.D., of Optimus Health Care advising the replacement of the Appellant's lost dentures to regain a certain extent of the Appellant's prior masticatory function and esthetic presence. (Appellant's Exhibit A)
22. CTDHP reviewed the [REDACTED], D.M.D. letter. (CTDHP's Exhibit 8)
23. On [REDACTED] 2018, CTDHP declined to approve authorization for replacement dentures for the Appellant. (CTDHP's Exhibit 8)

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. Not later than July 1, 2004, and prior to the implementation of a state-wide dental plan that provides for the administration of the dental services portion of the department's medical assistance, the Commissioner of Social Services shall amend the federal waiver approved pursuant to Section 1915(b) of the Social Security Act. Such waiver amendment shall be submitted to the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies in accordance with the provisions of section 17b-8. Conn. Gen. Stat. § 17b-282b.
3. The Commissioner of Social Services shall modify the extent of nonemergency adult dental services provided under the Medicaid program. Such modifications shall include, but are not limited to, providing one periodic dental exam, one dental cleaning and one set of bitewing x-rays each year for a healthy adult. For purposes of this section, "healthy adult" means a person twenty-one years of age or older for whom there is no evidence indicating that dental disease is an aggravating factor for the person's overall health condition. Conn. Gen. Stat. § 17b-282d (a).
4. The limitations on coverage of certain non-emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all adults twenty-one years of age and older and are subject to the prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies. Conn. Agencies Regs. § 17b-262-864.
5. The Appellant is over the age of twenty-one years.
6. The Appellant is subject to limitations on coverage of non-emergency dental services as outlined in Conn. Agencies Regs. § 17b-262-864.
7. 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).
8. All nonemergency dental services provided under the Department of Social Services' dental programs, as described in section 17b-282b, shall be subject to prior authorization. Nonemergency services that are exempt from the prior authorization process shall include diagnostic, prevention, basic restoration procedures and nonsurgical extractions that are consistent with standard and reasonable dental practices. Dental benefit limitations shall apply to each client regardless of the number of providers serving the client. The commissioner may recoup payments for services that are determined not to be for an emergency condition or otherwise in excess of what is medically necessary. The commissioner shall periodically, but not less than quarterly, review payments for emergency dental services and basic restoration procedures for appropriateness of payment. For the purposes of this

section, "emergency condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate dental attention to result in placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to body functions or cause serious dysfunction of any body organ or part. Conn. Gen. Stat. §17b-282c.

9. 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).
10. Coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows:
 - (2) Prosthodontics:
 - (A) Coverage of complete and removable partial dentures for functional purposes when there are fewer than 8 posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.
 - (B) Coverage of removable partial dentures when there are more than 8 posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies;
 - (C) One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis is acceptable and that he or she understands the department's replacement policy as described in subsection (d) of this section; and

(D) Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse or negligence. Conn. Agencies Regs. §17b-262-864 (b)(2).

11. The HUSKY Health/Medicaid program cannot pay for a replacement of the Appellant's dentures prior to November 13, 2019, unless it is medically necessary—as defined in Conn. Gen. Stat. § 17b-259b (a)—to do so.
12. The Appellant requested replacement of her existing upper and lower partial dentures for cosmetic reasons.
13. Replacement of the Appellant's upper and lower partial dentures is not medically necessary.
14. CTDHP correctly denied prior authorization for payment through the HUSKY Health/Medicaid program to replace the Appellant's partial dentures.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
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 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.