

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

[REDACTED], 2019
Signature Confirmation

Client ID # [REDACTED]
Request #128655

NOTICE OF DECISION
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

[REDACTED] 2018, the Connecticut Dental Health Partnership (“CTDHP”), sent [REDACTED] (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of orthodontia services for her minor child, [REDACTED] (the “child”). The notice indicated that the severity of the child’s malocclusion did not meet the requirements in state law to approve the proposed treatment.

[REDACTED], 2018, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

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

[REDACTED], 2018, the Appellant requested a reschedule of the administrative hearing.

[REDACTED], 2018, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED], 2018.

[REDACTED], 2018, the Appellant requested a reschedule of the administrative hearing.

[REDACTED] 2018, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED], 2018.

██████████, 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, CTDHP's Representative
 Dr. Jonathan Gorman, CTDHP's Dental Consultant, by phone
 Veronica King, Hearing Officer

The hearing record remained open for the submission of additional information. Information was provided by the Appellant at the administrative hearing. On ██████████ 2019, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for the child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. The Appellant is the child's mother. (Hearing Record)
2. The child (D.O.B. ██████/01) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Exhibit 1: Prior Authorization Claim and Hearing Record)
3. CTDHP also known as BeneCare Dental Plans is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. ██████ ████████████████████ is the child's treating orthodontist (the "treating orthodontist"). (Exhibit 1 and Hearing Record)
5. ██████████, 2018, the treating orthodontist submitted to BeneCare, a Preliminary Handicapping Malocclusion Assessment Record with a score of 24 points, dental models and panorex films of the child's mouth. (Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, ██████/18)
6. ██████████ 31, 2018, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, independently reviewed the child's models and panoramic radiographs, and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge also found no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, ██████/18)

7. [REDACTED] 2018, CTDHP issued a notice denying the treating orthodontist's request for prior authorization for orthodontic services because the child's score was less than 26 points on the Malocclusion Assessment Record, her teeth were not crooked enough to qualify for braces and the teeth currently posed no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action for Denied Services or Goods, [REDACTED]/18)
8. [REDACTED], 2018, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
9. [REDACTED], 2018, Dr. Vincent Fazzino, DMD, BeneCare's dental consultant, independently reviewed the child's models and panoramic radiographs and arrived at a score of 20 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino also found no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/18)
- [REDACTED], 2018, CTDHP notified the Appellant that the request for orthodontic services was denied because the child's second score of 20 points was less than the 26 points needed for coverage, lack of evidence of the presence of severe deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child's teeth. (Exhibit 7: Letter Regarding Orthodontic Services, [REDACTED]/18)
11. The child often has pain due to her malocclusion. (Appellant's Testimony)
12. [REDACTED] 2018, the Appellant provide a letter dated [REDACTED] 2018 from the treating orthodontist. The letter described how he scored the child's malocclusion severity assessment that he submitted to BeneCare. (Appellant's Exhibit A: Additional documents)
13. The Appellant wrote a letter explaining the child's malocclusion and how is affecting the child's life. (Appellant's Exhibit A)
14. [REDACTED] 2018, Dr. Robert Gange, DDS, BeneCare's dental consultant, reviewed the treating orthodontist letter. Dr. Gange commented; "Review of provider letter does not justify changing the score of the malocclusion." (Exhibit 9: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/19)
15. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2018. This decision, therefore, was

due no later than [REDACTED], 2018. However the hearing that was originally scheduled for [REDACTED] 2018, was rescheduled for [REDACTED] and the hearing record was left open until [REDACTED] 2019, at the request of the Appellant, which caused a 82-day delay. Because this 82 day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019. (Hearing Record)

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
2. State regulations 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. State regulation 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. [Conn. Gen. Stat. § 17b-259b]
4. State regulation defines 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. [Conn. Agencies Regs. § 17-134d-35(b)(3)]

5. State statute 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. [Conn. Gen. Stat. § 17b-259b(b)]
6. State regulation provides that prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment. [Conn. Agencies Regs. §17-134d-35(f)(1)]
7. State statute requires upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. [Conn. Gen. Stats. § 17b-259b(c)]

CTDHP correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.

CTDHP correctly determined that the child did not have a deviation of such severity that would cause irreversible damage to the teeth and underlying structures if left untreated.

CTDHP correctly determined that the child has not been treated by a licensed psychologist or licensed psychiatrist who has accordingly limited his or her practice to child psychiatry or child psychology.

CTDHP correctly determined that the child's malocclusion did not meet the criteria for medically necessary as established in state regulations at this time.

CTDHP correctly denied prior authorization because the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

DISCUSSION

There are three malocclusion assessment records in the child's file. None of the dentists who scored the child's teeth found that she scored the required 26 points to qualify for orthodontic services. Her treating orthodontist provided a letter stating that he scored approximately the 26 points needed for husky approval.

The Appellant argues that the child has been trying to gain state approval for braces for years and that her scores have increased through the years. The Appellant also testified that the treatment would improve the child's self-image and help the child during this important stage in life. In addition, the Appellant argues that because the child's scores it would be fair that at least 75% of the treatment be covered by insurance.

There is some consensus across all three assessments that the child has presence of spacing within her teeth and overbite. The doctors also agreed that the child has presence of other malocclusion relate mandibular to maxillary teeth and has been evaluated and scored accordingly. The issue it is the severity of the malocclusion. Unfortunately, based on the evidence provided by the treating orthodontist, the child's malocclusion does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations. Regulations are clear and don't provide for partial payments.

The Appellant's request for prior authorization of orthodontia treatment remains denied.

DECISION

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

Veronica King
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.

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.