

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

██████████, 2019
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # ██████████

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2018, Connecticut Dental Health Partnership / BeneCare Dental Plans (“BeneCare”) sent ██████████ the “Appellant”) a notice of action denying a request for prior authorization of orthodontia for ██████████ (the child”), indicating that the severity of his malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia services.

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
Karina Reininger, BeneCare’s Representative
Dr. Brett Zanger, BeneCare’s Dental Consultant (via telephone)

Sybil Hardy, Hearing Officer

The hearing record remained open for the submission and review of new medical information. On [REDACTED] 2019, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for the child's orthodontic services was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of the child. (Appellant's Testimony)
2. The child is 14 years old [REDACTED] and is a participant in the Medicaid program, as administered by the Department. (Appellant's Testimony, Exhibit 2: [REDACTED] Malocclusion Severity Assessment, [REDACTED] 18)
3. BeneCare is the Department of Social Services' (the "Department") contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. Dr. [REDACTED], DDS of [REDACTED] Connecticut, is the child's treating orthodontist (the "treating orthodontist"). (Hearing Record, Exhibit. 1: Prior Authorization Claim Form, [REDACTED] 18)
5. On [REDACTED] 2018, the treating orthodontist requested completed x-rays and dental models of the child's mouth. (Exhibit 13: BeneCare Case Review)
6. On [REDACTED] 2018, Dr [REDACTED] (the "treating oral surgeon") extracted the following pre-molars from the child's mouth: 4, 13, 20 and 29. (Appellant's Testimony, Exhibit 13)
7. The assessment of the child's mouth was based on x-rays, dental models and film created prior to the extraction of his four pre-molars. (Hearing Record, Exhibit 13)
8. There is no evidence to indicate that the treating orthodontist was aware that the child's pre-molars were extracted. (Hearing Record)
9. On [REDACTED] 2018, BeneCare received from the treating orthodontist a Preliminary Handicapping Malocclusion Assessment Record with a score of 20 points, Dental models and Panorex Films of the child's mouth. The treating orthodontist indicated that his permanent teeth are blocked from coming in because there was not enough

space available after deciduous pre-molars were extracted. (Hearing Record, Exhibit 2)

10. On [REDACTED] [REDACTED] 2018, Vincent Fazzino, DMD, BeneCare's orthodontic dental consultant, independently reviewed the child's models and panoramic radiographs, and arrived at a score of 17 points on a completed Preliminary Handicapping Malocclusion Assessment Record. BeneCare's orthodontic dental consultant found no presence of other severe deviations affecting the mouth and underlying structures. The dental consultant indicated that the child's "posterior teeth are impacted or crowded due to the premature loss of a deciduous molar and are better off being extracted." Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED] 18)
11. On [REDACTED] 2018, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of the child's mouth was less than the 26 points required for coverage and there is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures if left untreated would cause irreversible damage to the teeth and underlying structures. There is no evidence that a diagnostic evaluation has been done by a licensed child psychologist or a licensed child psychiatrist indicating that the child's dental condition is related to the presence of severe mental, emotional and/or behavior problems, disturbances or dysfunction as defined in the current edition of the Diagnostic Statistical Manual and that orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (Exhibit. 4: Notice of Action for Denied Services or Goods, [REDACTED])
12. On [REDACTED] 2018, the Department received the Appellant's request for an administrative hearing. (Exhibit. 5: Appeal and Administrative Hearing Request Form, 10/29/18)
13. On [REDACTED] 2018, BeneCare denied the Appellant's request for an expedited appeal regarding orthodontic services because the child's life is not at risk waiting for a regular decision. (Exhibit 6: BeneCare Letter Regarding Orthodontic Services, [REDACTED] 8)
14. On [REDACTED] 2018, Geoffrey Drawbridge, DDS, the Department's dental consultant, reviewed the child's models and panoramic radiographs and arrived at a score of 14 points on a completed Preliminary Handicapping Malocclusion Assessment Record. There is no presence of severe deviations affecting the mouth and underlying structures. The dental consultant indicated that the crowding of the posterior teeth is due to premature loss of deciduous molars, which may be better off being extracted. (Exhibit 7: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED] 18)

15. On [REDACTED] 2018, BeneCare notified the Appellant that orthodontic treatment is not medically necessary for the child. (Exhibit 9: Letter Regarding Orthodontic Services, [REDACTED] 18)
16. The treating orthodontist and the two dental consultants all arrived a score less than 26 points on the Preliminary Handicapping Malocclusion Assessment Record. (Facts # 9, 10 and 14)
17. The BeneCare Consultants reviewed and based their assessment on the child's x-rays, dental models and film created prior to the extraction of his four pre-molars. (Facts # 9, 10 & 14)
18. The child does receive regular dental care and has had past issues with cavities and premature extractions of deciduous teeth. (Appellant's Testimony, Facts # 9 and 14)
19. The child did not wear the spacer prescribed after the extractions of his deciduous teeth to keep his dentition from collapsing and allowing space for the permanent teeth to come through. (Appellant's Testimony, Dental Consultant's Testimony)
20. The child has experienced loss of space in his mouth that makes it difficult for some of his permanent teeth to erupt on their own. (Facts # 9, 10 and 14, Exhibit 10: Letter from [REDACTED])
21. BeneCare's denial of the Appellant's request for orthodontia services was based on outdated information. (Facts #16-19)
22. The child does not have any pain or infection. (Appellant's Testimony)
23. The child has some difficulty chewing certain foods due the loss of several molars. He frequently uses his front teeth to chew. (Appellant's Testimony)
24. The child has been diagnosed with ADHD and takes daily medications that can cause dental issues without diligent care and cleaning of his teeth. (Dental Consultant's Testimony)
25. The child's daily medication's impacts his appetite. (Appellant's Testimony)
26. The child has issues with his speech and receives speech therapy services. (Appellant's Testimony)
27. The child did receive treatment from a licensed psychiatrist or psychologist for issues not related to his malocclusion. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Connecticut General Statutes §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. [Connecticut. Agencies Regulations. §17-134d-35(a)]
3. State statute 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. [Connecticut General Statutes § 17b-259b]
4. State statutes provides 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 American Psychiatric Association, that affects the individuals daily functioning. [Section 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. [Connecticut Agencies Regs. §17-134d-35(f)]
6. BeneCare correctly determined that the child's x-rays, dental models and film created prior to the extraction of his four pre-molars, which were submitted for the prior authorization, do not show severe deviations affecting the mouth and underlying structures; and do not meet the requirement of a 26 point score on the preliminary assessment.
7. BeneCare correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.
8. BeneCare correctly denied the prior authorization request for the child because he does not meet the medical necessity criteria for orthodontic services, in accordance with state law.

DISCUSSION

BeneCare made its decision based on medical information that the treating orthodontist submitted. This information was not a current representation of the child's mouth. The Appellant had her child's four pre-molars removed after the preauthorization assessment was completed. The treating orthodontist had not recommend removal of these teeth prior to being approved for orthodontia services. The decision by BeneCare was correct based on the information submitted for approval.

DECISION

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


Sybil Nardy
Hearing Officer

Pc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box
486 Farmington, CT06032
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.