

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

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

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

NOTICE OF DECISION

PARTY

██████████
██████████
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██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ ██████████, the child of ██████████ (the “Appellant”), a notice of action denying a request for prior authorization of interceptive orthodontic treatment for ██████████, indicating that the severity of her 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 interceptive orthodontic treatment.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ ██████████, 2019.

On ██████████, 2019, 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, Grievance and Appeals Specialist, CTDHP’s representative
- Dr. Vincent Fazzino, Dental Consultant, CTDHP’s representative
- Roberta Gould, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, ██████. (Hearing Record)
2. ██████ is 8 years old (D.O.B. ██████) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. ██████ ██████ ██████ is ██████'s treating orthodontist (the "treating orthodontist"). (Exhibit 1: Prior Authorization Dental Claim Form and Hearing summary)
5. On ██████, 2018, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for ██████. (Exhibit 1 and Hearing summary)
6. The proposed treatment for ██████ is Phase One interceptive orthodontic treatment with braces. (Exhibit 1 and Hearing summary)
7. On ██████, 2018, CTDHP received from the treating orthodontist a Preliminary Handicapping Malocclusion Assessment Record with a score of 10 points, Dental models and panoramic x-ray films of ██████'s mouth. The treating orthodontist commented that "Numbers 4 and 13 impacted, premature loss of numbers a and k, edge to edge occlusion – gingival recession numbers 24 and 25." (Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record and Hearing summary)
8. Gingival recession exists when there is at least 2 to 3 millimeters of recession as compared to adjoining teeth. (Dr. Fazzino's testimony)
9. On ██████, 2018, Dr. Benson Monastersky, D.M.D., CTDHP's orthodontic dental consultant, independently reviewed ██████'s models and panoramic x-rays of her teeth. He found no evidence of severe irregular placement of ██████'s teeth within the dental arches and no irregular growth or development of the jawbones. There was no evidence of emotional issues directly related to her mouth. Dr. Monastersky commented that ██████ "does not meet Phase One treatment guidelines. Gingival margins of numbers 24 and 25 are within normal limits.

Other issues can be dealt with when dentition matures.” (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record and Hearing summary)

10. On [REDACTED] 2018, CTDHP sent a Notice of Action letter to [REDACTED] explaining that she did not qualify for orthodontic services because it was not medically necessary. (Exhibit 4: Notice of Action for Denied Services and Hearing summary)
11. On [REDACTED] 2018, the Department received the Appellant’s request for an administrative hearing. (Exhibit 5: Appeal and Administrative Hearing request form)
12. On [REDACTED] 2019, Dr. Geoffrey Drawbridge, D.D.S., CTDHP’s orthodontic dental consultant, conducted an appeal review of [REDACTED]’s models and panoramic x-rays. Dr. Drawbridge found no evidence of severe irregular placement of [REDACTED]’s teeth within the dental arches, no irregular growth or development of the jawbones and no evidence of emotional issues directly related to her dental situation. He commented that [REDACTED] “does not meet interceptive treatment guidelines. Re-evaluate with dental maturity. Provider comments noted. Narrative addressed with above criteria scoring.” (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record and Hearing Summary)
13. [REDACTED] has some gingival recession. The gingival recession does not meet the criteria of a minimum of 2 to 3 millimeters as compared to adjoining teeth. (Dr. Fazzino’s testimony)
14. On [REDACTED], 2019, CTDHP notified the Appellant that an appeal review has determined that interceptive orthodontic treatment is not medically necessary for [REDACTED] because there was no presence found of any 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 her teeth. (Exhibit 8: Appeal Review Letter and Hearing summary)
15. [REDACTED] has not received treatment by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to her teeth or mouth. (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) 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.

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-259b(b) 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 requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.
4. Section 17b-282e of the Supplement to the General Statutes provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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 structure; 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. Connecticut Agencies Regulations § 17-134d-35(b)(3) define 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.

6. Connecticut Agencies Regulations §17-134d-35(f)(1) provide 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.

CTDHP correctly determined that in ██████'s case, study models submitted for prior authorization do not clearly support the presence of severe deviations affecting the mouth and underlying structures as per state regulations for the authorization of orthodontic treatment.

In the Appellant's case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that ██████ receive orthodontic treatment to significantly ameliorate her mental, emotional, and or behavior problems, disturbances or dysfunctions.

CTDHP was correct to deny prior authorization for interceptive orthodontic treatment because ██████'s malocclusion did not meet the criteria for medical necessity as established in state statute and regulations.

On ██████ 2018, CTDHP was correct to issue a notice of action denying a prior authorization for interceptive orthodontic treatment for ██████.

DECISION

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



Roberta Gould
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, 25 Sigourney Street, Hartford, CT 06106.

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, 25 Sigourney Street, Hartford, CT 06106. 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.