

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**

██████████  
██████████.  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2019, BeneCare Dental Plans (“BeneCare”) issued a notice of action (“NOA”) to ██████████ (the “Appellant”) denying a request for prior authorization to complete orthodontic treatment for ██████████, his minor child, indicating that the severity of ██████████’s malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization to complete 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  
Michael Massarelli, 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 a prior authorization request to complete comprehensive orthodontic treatment for ██████ as not medically necessary was in accordance with state statute and regulations.

## FINDINGS OF FACT

1. The Appellant is the father of the minor child, ██████ (the "child"). (Hearing Record)
2. The child is 11 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. BeneCare 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"). (Ex. 1: Prior Authorization Claim Form)
5. On ██████, 2019, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for the child. (Summary, Ex. 1)
6. On ██████, 2019, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 33 points, digital models and panoramic x-ray films of the child's mouth. The treating orthodontist did not indicate on the assessment that there was any presence of severe deviations affecting the child's mouth and underlying structures, and left no comments on the form, but indicated that the child had one of the listed criteria for approval of interceptive orthodontic treatment by checking the box for "Severe overjet of more than 9 millimeters". (Ex. 2: *Preliminary Handicapping Malocclusion Assessment Record* completed by the treating orthodontist)
7. On ██████, 2019, Benson Monastersky, D.M.D., a BeneCare orthodontic dental consultant, independently reviewed the child's digital models and panoramic radiographs, and arrived at a score of 15 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Monastersky indicated that he found no presence of severe deviations affecting the child's mouth and underlying structures, and determined that the child did not meet any of the criteria necessary for approval of interceptive orthodontic treatment, including his notation that the child did not have "Severe overjet of more than 9 millimeters". Dr. Monastersky's decision on the application was that the proposed orthodontic treatment was not approved. (Ex. 3: *Preliminary Handicapping Malocclusion Assessment Record* completed by Dr. Monastersky)

8. On [REDACTED], 2019, BeneCare denied the treating orthodontist's request for prior authorization to complete orthodontic services for the reasons that the scoring of the child's mouth was less than the 26 points required for coverage, and that there was no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition was related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)
9. On [REDACTED], 2019, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
10. On [REDACTED], 2019, Robert Gange, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of the child's digital models and panoramic radiographs and arrived at a score of 15 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Gange indicated that he found no presence of severe deviations affecting the child's mouth and underlying structures, and determined that the child did not meet any of the criteria necessary for approval of interceptive orthodontic treatment, including his notation that the child did not have "Severe overjet of more than 9 millimeters". Dr. Gange's decision on the application was that the proposed orthodontic treatment was not approved. (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record completed by Dr. Gange)
11. On [REDACTED], 2019, BeneCare notified the Appellant that it had conducted an appeal review, and that the outcome of the review was that BeneCare's original decision, that orthodontic treatment was not medically necessary for the child, was upheld. (Ex. 7: Appeal Review Decision Letter)
12. Drs. Monastersky and Gange each have received training in the scoring of the *Preliminary Handicapping Malocclusion Assessment Record*, and each have many years of experience in scoring the assessments. They regularly attend meetings where the scoring of the assessments is discussed, with the aim of the meetings being to ensure that all of BeneCare's orthodontic consultants are in agreement as to their understanding of the scoring rules, and that all of the consultants apply the rules on a consistent basis. (Mr. Massarelli's testimony, Dr. Fazzino's testimony)
13. The assessments of the child's teeth performed by Drs. Monastersky and Gange, which were scored independently, are remarkably similar, with a single minor difference in the scoring, but with each assessment resulting in the same total point score of 15 points. (Ex. 3, Ex. 6)

14. The assessment performed by the child's treating orthodontist is the outlier amount the three assessments that were performed, resulting in a score of 33 points, while the other two assessments each resulted in a score of 15 points. (Ex. 2, Ex.3, Ex. 6)
15. In the section of the assessment for "Inter-Arch Deviations, Posterior Segments: Relate Mandibular to Maxillary Teeth, Distal Category", the treating orthodontist scored eight teeth as qualifying for that category of malocclusion, while neither Dr. Monastersky nor Dr. Gange determined that any of the child's teeth qualified to be scored in that category. (Ex. 2, Ex.3, Ex. 6)
16. The section of the assessment for "Inter-Arch Deviations, Posterior Segments: Relate Mandibular to Maxillary Teeth, Distal Category" is where an abnormal bite relationship of the back teeth referred to as Class II occlusion is noted, in which the upper teeth are forward of the lower teeth in the bite. It is possible for teeth to occlude in a less-than-ideal Class II bite relationship without meeting the criteria to be scored on the assessment; in order to be scored on the assessment, the deviation must extend at least a full cusp beyond the cusp of the tooth in the opposing arch. (Dr. Fazzino's testimony)
17. The child has never been seen by a psychologist or psychiatrist, or diagnosed with any emotional or mental health condition related to the condition of her teeth; the child has suffered from generalized anxiety, and has received counselling, but, to the best of the Appellant's knowledge, she has never been recommended by her counsellor to be evaluated by a psychologist or psychiatrist. (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 that "(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 Agencies Regulations §17-134d-35(f) provides in relevant part that “The study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment....”
5. Connecticut General Statutes § 17b-282e provides in relevant part 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 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”.
6. Connecticut Agencies Regulations §17-134d-35(e)(2) provides in relevant part that “...the Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions, and which may be caused by the recipient’s daily functioning. The Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child’s mental, emotional, and/or behavior problems. And that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems”.

**Under the scoring standards established for the Salzman assessment, the child’s study models submitted for prior authorization did not show the**

occlusal deviations necessary to support the required 26 point score on the preliminary assessment.

There was no substantive information regarding the presence of severe deviations affecting the child's oral facial structures that needed to be considered in determining the medical necessity of orthodontic treatment for the child.

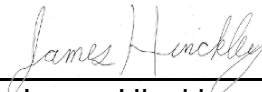
There was no substantive information that the child had any severe mental, emotional or behavioral problems or disturbances directly related to the malocclusion of her teeth that needed to be considered in determining the medical necessity of orthodontic treatment for the child.

BeneCare was correct when it found that the child did not have malocclusion of her teeth to a degree that met the criteria for severity, or 26 points, as established in state statute, or have the presence of other conditions required by statute to be considered when determining the need for orthodontic services.

BeneCare was correct when it denied prior authorization to complete comprehensive orthodontic services for the child as not medically necessary, in accordance with state statute and regulations.

**DECISION**

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



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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.