

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: ██████████  
Client: ██████████  
Request: 136438

**NOTICE OF DECISION**

**PARTY**

██████████  
████████████████████  
████████████████  
████████████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, Connecticut Dental Health Partnership (“CTDHP”), the Department of Social Services’ dental reviewer for HUSKY Health provider claims, issued ██████████ (the “Appellant”) a *Notice of Action* denying her dental provider’s request for prior authorization of orthodontic treatment for her minor daughter, ██████████ (the “child”).

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2019 postmarked hearing request.

On ██████████ 2019, the OLCRAH issued a notice to the Appellant scheduling an 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, the OLCRAH held an administrative hearing. The following attended the proceeding by video or telephone conferencing:

██████████, Appellant  
Magdalena Carter, CTDHP’s representative  
Greg Johnson, D.M.D., CTDHP’s witness  
Eva Tar, Hearing Officer

The hearing record closed for the submission of evidence on ██████████ 2019.

On ██████████ 2019, the CTDHP voluntarily overturned its ██████████ 2019 denial.

### **STATEMENT OF ISSUE**

The issue to be decided is whether CTDHP correctly determined on [REDACTED] 2019 that orthodontic treatment for the child was not medically necessary.

### **FINDINGS OF FACT**

1. The child is [REDACTED] years old. (Appellant's testimony)
2. The child has a diagnosis of [REDACTED]. (CTDHP's email correspondence: [REDACTED])
3. The child has HUSKY Health medical coverage. (CTDHP's Exhibit 4)
4. CTDHP is the Department's dental subcontractor for the review of prior authorization requests for dental treatment through the HUSKY Health program. (CTDHP's representative's testimony)
5. CTDHP received a request for prior authorization of orthodontic treatment for the child from [REDACTED] (the "dental practice"). (CTDHP's Exhibit 1)
6. On [REDACTED] [REDACTED] 2019, CTDHP denied the dental practice's request for prior authorization of orthodontic treatment for the child. (CTDHP's Exhibit 4)
7. On [REDACTED] 2019, CTDHP granted the dental practice's request for prior authorization of orthodontic treatment for the child. (CTDHP's email correspondence: [REDACTED])
8. Connecticut General Statutes § 17b-61 (a) provides that a final decision be issued within 90 days of a request for an administrative hearing. The Appellant signed a waiver of right to a timely hearing decision under section 17b-61 (a) of the Connecticut General Statutes.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 (a)(6) of the Connecticut General Statutes designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

Section 17b-262 of the Connecticut General Statutes provides in part that the Commissioner of Social Services "may make such regulations as are necessary to administer the medical assistance program."

2. "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....” Conn. Gen. Stat. § 17b-282e.

“... The department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or a licensed psychologist who has accordingly limited his or her 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.” Conn. Agencies Regs. § 17-134d-35 (e)(2).

“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).

**CTDHP’s ██████ 2019 grant of prior authorization for orthodontic treatment for the child vacates its ██████ 2019 denial. The prior authorization has been approved; there is no practical relief that can be afforded through an administrative hearing.<sup>1</sup>**

**DECISION**

The Appellant’s appeal is DISMISSED as moot.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

Cc: Diane D’Ambrosio, CTDHP  
Rita LaRosa, CTDHP

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<sup>1</sup> “When the actions of the parties themselves cause a settling of their differences, a case becomes moot.” McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

### **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.