

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

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

Client ID # ██████████
Request # 136930

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██████████

NOTICE OF DISMISSAL

On ██████████ 2019, BeneCare Dental Plans ("BeneCare"), administered by the Connecticut Dental Health Partnership ("CTDHP") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of orthodontia services for ██████████, her minor child, indicating that the severity of the child's malocclusion did not meet the medical necessity requirement to approve the proposed treatment, and that orthodontia was not medically necessary.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia for the child.

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
Magdalena Carter, CTDHP Grievance & Appeals Representative
██████████, ITI Interpreter (Portugese)
Dr. Brett Zanger, Dental Consultant for CTDHP, via telephone
Shelley Starr, Hearing Officer

The hearing record remained open at the request of the Appellant, for the Department's review and comment of the Appellant's new evidence submitted at the hearing. On ██████████ 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 child's mother. (Hearing Record; Appellant's Testimony)
2. The child is [REDACTED] years old ([REDACTED]) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record; Exhibit 1: Claim Form received [REDACTED] 2018)
3. Benecare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] is the child's treating orthodontist (the "treating orthodontist"). (Hearing Summary; Exhibit 1: Claim Form received [REDACTED], 2018)
5. On [REDACTED], 2018, the treating orthodontist requested prior authorization for comprehensive orthodontic treatment, (Code D8080) for the child. (Hearing Summary; Exhibit 1: Claim Form received [REDACTED], 2018)
6. On [REDACTED], 2018, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 27 points, dental models and x-rays of the child's mouth. (Exhibit 2: Malocclusion Assessment Record received [REDACTED], 2018)
7. On [REDACTED] 2018, Dr. Benson Monastersky, DMD BeneCare's orthodontic dental consultant, independently reviewed the child's models and x-rays, and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. The consultant did not find the presence of other severe deviations affecting the mouth and underlying structures. (Hearing Record; Exhibit 3: Dr. Monastersky's Assessment dated [REDACTED] 2018)
8. On [REDACTED] 2019, BeneCare denied the treating orthodontists request for prior authorization of orthodontic services as not medically necessary. The child's teeth scored less than the 26 points needed for coverage, [REDACTED] teeth are not crooked enough to qualify for braces and they currently pose no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action for Denied Services or Goods dated [REDACTED] 2019)

9. On [REDACTED] 2019, the Department received the Appellant's request for an administrative hearing on the denial of braces for the child. (Exhibit 5: Hearing Request received [REDACTED] 2019)
10. On [REDACTED] 2019, Dr. Geoffrey Drawbridge, DDS, BeneCare's dental consultant, independently conducted an appeal review using the models and x-rays of the child and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. There was no indication that the doctor found the presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 6: Dr. Drawbridge's Assessment dated [REDACTED] 2019)
11. On [REDACTED] 2019, the Department sent the Appellant a Notice of Action denying the request for braces based on the appeal review. (Exhibit 7: Notice of Action dated [REDACTED] 2019; Hearing Summary)
12. On [REDACTED] 2019, at the time of the hearing, the Appellant provided a letter from [REDACTED] [REDACTED] for the Department's review and comment. (Appellant's Exhibit A: Letter from [REDACTED] [REDACTED] dated [REDACTED], 2019)
13. On [REDACTED] 2019, Dr. Geoffrey Drawbridge, DDS, BeneCare's dental consultant, reviewed the letter from [REDACTED], and determined that the letter was not from a licensed clinical child psychologist or psychiatrist and did not change the denial as the criteria is not met. (Appellant's Exhibit A: Letter from [REDACTED] dated [REDACTED] 2019; Exhibit 10: Dr. Drawbridge's Post Hearing Response dated [REDACTED] 2019)
14. On [REDACTED] 2019, BeneCare received from [REDACTED] a letter signed by both the child's [REDACTED]. The letter was forwarded to a Dental Consultant for further review. (Exhibit 11: Letter signed by [REDACTED])
15. On [REDACTED] 2019, BeneCare completed a third review of the submitted documents and determined that the orthodontic services are approved. (Exhibit 12: Email and CTDHP letter [REDACTED])
16. On [REDACTED] 2019, the Department sent the Appellant a notice advising that the Appellant's request for prior authorization to complete orthodontic services for [REDACTED] was approved. (Exhibit 12: Letter of Approval dated [REDACTED] 2019)

CONCLUSIONS OF LAW

1. Section 17b-2 & 17b-262 of the Connecticut General Statutes designates that the Department is the state agency for the administration of the Medicaid

program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program.

2. Regulations of Connecticut State Agencies § 17-134d-35(a) provides that orthodontic services provided for individuals less than 21 years of age will be paid for when provided by qualified dentist and deemed medically necessary as described in these regulations.
3. Uniform Policy Manual ("UPM") § 1570.25 (c)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department's policies and regulations. The Fair Hearing decision is intended to resolve the dispute.

UPM § 1570.25(F)(2) provides that the Department must consider several types of issues at an administrative hearing, including the following:

- a. eligibility for benefits in both initial and subsequent determinations

On [REDACTED] 2019, the Department has approved the Appellant's request for orthodontic services for her child. Thus, the Appellant has not experienced any loss of benefits.

The Appellant's hearing issue has been resolved; therefore, there is no issue on which to rule. "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).

The issue for which the Appellant had requested has been approved; there is no practical relief that can be afforded through an administrative hearing.

DECISION

The Appellant's appeal is **Dismissed** as moot.



 Shelley Starr
 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 06105-3725.

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.