

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

Case ID # ██████████  
Client ID # ██████████  
Request # 139650

NOTICE OF DISMISSAL  
PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, CT Dental Health Partnership/BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action denying orthodontia coverage for her 14-year-old minor child.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department’s action.

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 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals participated in the hearing:

██████████ Appellant  
Rosario Monteza, BeneCare Representative  
Dr. Vincent Fazzino, BeneCare Dental Consultant by telephone  
Christopher Turner, Hearing Officer

The hearing record remained open pending a third BeneCare evaluation. The record closed ██████████ 2019.

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether BeneCare's decision to deny orthodontia for her minor child was in accordance with state and federal law.

## **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child. (Hearing record)
2. The child is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record; Appellant's testimony)
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 provider. (Exhibit 1: Orthodontia Services Claim Form; Hearing summary)
5. On [REDACTED] 2019, BeneCare received from the treating provider a Preliminary Handicapping Malocclusion Assessment Record with a score of 33 points. Models and x-rays of the child's mouth were used for the evaluation. Provider commented: "Deep impinging overbite." (Exhibit 2: Malocclusion Assessment Record, [REDACTED]19)
6. On [REDACTED] 2019, Dr. Benson Monastersky, DMD., BeneCare's orthodontic dental consultant, independently reviewed the child's X-rays, and models of the child's teeth, and arrived at a score of 25 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky found no evidence of severe irregular placement of the child's teeth within the dental arches and found no irregular growth or development of the jaw. Dr. Monastersky commented: "Only number twenty-three overbite is deep enough to score." (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]19)
7. On [REDACTED] 2019, the Department denied the Appellant's prior authorization request for orthodontia for her minor child. (Exhibit 4A: Notice of Action)
8. [REDACTED] 26, 2019, the Appellant requested an administrative hearing to contest the Department's decision to deny orthodontia services for her minor child. (Exhibit 5A: Administrative Hearing Request)
9. On [REDACTED] 2019, a Dental Consultant for BeneCare, Dr. Geoffrey Drawbridge conducted a review. He used the models and X-rays of the child's teeth. The Malocclusion Severity Assessment scored 25 points. Dr. Drawbridge did not find evidence of severe irregular placement of the child's teeth within the dental arches or irregular growth or development of the jawbones. There was no evidence presented indicating the presence of emotional issues directly related to the child's

dental situation. Dr. Drawbridge denied approval of payment for this case because it did not meet the State of Connecticut requirements for being medically necessary. The Doctor commented: "Provider comment noted and scored appropriately." (Exhibit 6: Dr. Drawbridge's Assessment, [REDACTED])

10. On [REDACTED] 2019, BeneCare notified the Appellant that the child's score of 25 points did not meet the requirements for orthodontic treatment and that such treatment was not medically necessary. (Exhibit 7A: Letter regarding Orthodontic Services)
11. On [REDACTED] 2019, an administrative hearing was held. (Hearing record)
12. On [REDACTED] 2019, a Dental Consultant for BeneCare, Dr. Robert Gange conducted a review. He used the models and X-rays of the child's teeth. The Malocclusion Severity Assessment scored 29 points. Dr. Gange did find evidence of severe irregular placement of the child's teeth within the dental arches and irregular growth of the jawbones. Dr. Gange approved payment for this case because it does meet the State of Connecticut requirements for being medically necessary. (Exhibit 9A: Dr. Gange's Assessment, 9B: BeneCare approval letter)
13. On [REDACTED] 2019, BeneCare approved the Appellant's orthodontia request for her minor child. BeneCare's decision to approve orthodontia coverage for the Appellant's minor child means the previous prior authorization denial has been overturned and as a result, the Appellant's claim is now approved. In view of this, there has been no "action" taken to deny orthodontia services covered under the HUSKY program. (Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
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 a 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)(1) provides that the Department must consider several types of issues at an administrative hearing, including the following:

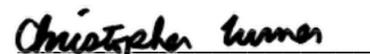
- a. eligibility for benefits in both initial and subsequent determinations.

The Department has approved the Appellant's orthodontia request for her child. As a result, the Appellant's appeal issue has been resolved.

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 service that the Appellant had originally 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.

  
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Christopher Turner  
Hearing Officer

Cc: Diane D'Ambrosio, Connecticut Dental Health Partnership,  
P.O. Box 486 Farmington, CT 06032  
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, law, and 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 if 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 06105-3725. 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.