

The record remained open for the submission of additional evidence. On [REDACTED] 2019, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether Benecare's denial of prior authorization through the Medicaid program for the child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [REDACTED] ("Appellant") is the foster mother of the child. (Appellant's Testimony)
2. [REDACTED] Representative") works for the [REDACTED] and is the Legal Statutory Parent of the child. ([REDACTED] Representative's Testimony)
3. The child is [REDACTED] years old born on [REDACTED] 2002. (Exhibit 1: Prior Authorization Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record and Exhibit 5: Hearing Request)
4. The child is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
5. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
6. [REDACTED], (the "treating orthodontist") is the child's treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Request)
7. On [REDACTED], 2019, Benecare received a prior authorization request from the treating orthodontist to complete orthodontic services for the child. (Hearing Summary and Exhibit 1: Prior Authorization Request)
8. On [REDACTED] 2019, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 27 points, models and x-rays of the child. The treating orthodontist did not find the presence of other severe deviations affecting the mouth and underlying structures if left untreated would cause irreversible damage to the teeth and underlying structures. (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)

9. On [REDACTED] 2019, Dr. Vincent Fazzino, DMD, Benecare's orthodontic dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 23 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino did not find evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Fazzino found no evidence presented stating the presence of emotional issues directly related to the child's dental situation and determined that orthodontia services were not medically necessary. (Hearing Summary, Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)
10. On [REDACTED] [REDACTED] 2019, Benecare notified the child that the request for orthodontic services was denied. Benecare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that orthodontia treatment is not medically necessary under the factors set forth in state statutes and state regulations. Specifically, the scoring of the child's mouth was less than the 26 points needed for coverage; there was no additional evidence of the presence of severe deviations affecting the mouth or underlying structures, which, if left untreated, would cause irreversible damage. In addition, there was no evidence that a diagnostic evaluation has been done by a licensed child psychologist or a licensed child psychiatrist indicating the child has the presence of a severe mental, emotional, or behavior problem as defined in the current edition of the Diagnostic Statistical Manual which orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (Exhibit 4: Notice of Action for Denied Services or Goods)
11. On [REDACTED] 2019, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
12. On [REDACTED] [REDACTED], 2019, Dr. Geoffrey Drawbridge, DDS, a Benecare dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 25 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge did not find evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Drawbridge found no evidence presented stating the presence of emotional issues directly related to the child's dental situation and determined the treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
13. On [REDACTED] 2019, Benecare notified the Appellant that the request for orthodontic services was denied because the child's score of 25 points was less than the 26 points needed for coverage, lack of evidence of the presence of severe deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or

psychologist directly related to the condition of the child's teeth. (Exhibit 7: Determination Letter)

14. On [REDACTED] 2019, Benecare received a letter from [REDACTED] ("Surrogate Parent"), [REDACTED]. The [REDACTED] Surrogate Parent writes, "While the long-term health of [the child's] teeth or discomfort to her mouth and jaw are concerns, I also believe that [the child] is seeking straighter teeth for aesthetic purposes. She is not happy with the look of her teeth and having straight teeth can have a big impact on her self-confidence. I believe that self-confidence is vital to [the child's] academic success and school performance." (Exhibit 9: [REDACTED] Letter)
15. The child receives treatment for major depressive disorder, generalized anxiety disorder, and post-traumatic stress disorder ("PTSD") at [REDACTED]. The child takes Zoloft as prescribed by her psychiatrist and meets with [REDACTED], APRN Psychiatric Nurse Practitioner (the "nurse practitioner") for medication management. The child attends individual therapy and/or family therapy weekly with a marriage and family therapist. Therapy objectives include coping skills to manage depression and anxiety, participate in quality time with a foster parent, improve sibling relationship, and gain self-esteem and confidence in regards to physical appearance. (Appellant's Testimony, [REDACTED] Representative's Testimony, Exhibit A: Individual Action Plan, and Exhibit B: Office Visit Assessment)
16. Before placing the child with the Appellant, the child had four prior foster care placements. Numerous placements have caused delays in the child's medical treatment. (Appellant's Testimony)
17. On [REDACTED] 2019, the child met with the nurse practitioner and reports an overall improvement in her condition. The nurse practitioner reports the child has no signs of depression, no signs of PTSD, and is much less anxious. (Exhibit B: Office Visit Assessment)
18. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. However, the hearing, which was originally scheduled for [REDACTED] 2019, was rescheduled for [REDACTED], 2019, at the request of the Appellant, which caused a 21-day delay. In addition, the record remained open for an additional 14 days for the submission of additional evidence. Because this 35-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes states that the Department of Social Services is the designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. State statute provides orthodontic services for Medicaid recipients under twenty-one years of age. The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann 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 Salzmann 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. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation. [Conn. Gen. Stats. § 17b-282e]
3. Regulations of the Connecticut State Agencies ("Conn. Agency Regs.") § 17-134d-35(a) provide that orthodontic services will be paid for when (1) provided by a qualified dentist and (2) deemed medically necessary as described in these regulations.
4. State statute 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. [Conn. Gen. Stat. § 17b-259b]
5. State regulation defines 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. [Conn. Agencies Regs. § 17-134d-35(b)(3)]
 6. State statute 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 request 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)]
 7. State regulation provides that 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. [Conn. Agencies Regs. §17-134d-35(f)(1)]
 8. State statute requires upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity. [Conn. Gen. Stats. § 17b-259b(c)]

9. The study models and x-rays submitted by the treating orthodontist do not clearly support the total point score of 26 as required by state statute for the authorization of orthodontia treatment.
10. Benecare correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points as established in state statute and that there was no presence of severe deviations affecting the mouth and underlying structures.
11. Benecare correctly determined the child's diagnosis of major depressive disorder, generalized anxiety disorder, and PTSD are not directly related to her teeth or jaw structure in which orthodontia treatment would significantly improve her medical condition.
12. Benecare correctly determined the child does not have any mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to her teeth or jaw structure in which orthodontia treatment would significantly ameliorate the problems, disturbances or dysfunctions.
13. Benecare was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state statute.
14. Benecare was correct to deny the prior authorization request for orthodontia treatment because the child scored less than twenty-six points under the Salzmann Handicapping Malocclusion Index and the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.
15. On [REDACTED] 2019, Benecare correctly issued the Appellant a notice of action denying the Appellant's request for orthodontia treatment for the child.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

PC: Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita LaRosa, CTDHP, P.O. Box 486 Farmington, CT 06032



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.

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.