

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: 141545

NOTICE OF DECISION

PARTY

██████████
Re: ██████████ minor
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, Connecticut Dental Health Partnership (“CTDHP”) issued ██████████
██████████ (the “Appellant”) a *Notice of Action* denying her dental provider’s request for
prior authorization of orthodontic treatment for ██████████ (the “child”), her
minor 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
██████████ Appellant’s witness
Rosario Montesa, CTDHP’s representative
Brett Zanger, D.M.D., CTDHP’s witness
Judy Shek, ITI Translates, Interpreter
Eva Tar, Hearing Officer

The hearing record closed [REDACTED] 2019.

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly determined that orthodontic treatment for the Appellant's child was not medically necessary.

FINDINGS OF FACT

1. The Appellant's child is [REDACTED] years old. (Appellant's witness's testimony)
2. The Appellant's child has HUSKY Health medical coverage. (CTDHP's Exhibit 4)
3. On or after [REDACTED] 2019, [REDACTED] (the "treating orthodontist") of [REDACTED] filed a prior authorization request for the child's orthodontic treatment with CTDHP. (CTDHP's Exhibit 1)(CTDHP's Exhibit 2)
4. Benson Monastersky, D.M.D., (the "first dental reviewer") is a CTDHP dental consultant. (CTDHP's Exhibit 3)
5. On [REDACTED] 2019, the first dental reviewer scored the severity of the child's malocclusion as 18 points on the *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
6. On [REDACTED] 2019, CTDHP denied the treating orthodontist's request for prior authorization for the child's orthodontic treatment. (CTDHP's Exhibit 4)
7. Vincent Fazzino, D.M.D. (the "second dental reviewer") is a CTDHP dental consultant. (CTDHP's Exhibit 6)
8. On [REDACTED] 2019, the second dental reviewer scored the severity of the child's malocclusion as 17 points on the *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 6)
9. On [REDACTED] 2019, CTDHP again denied the treating orthodontist's request for prior authorization for child's orthodontic treatment. (CTDHP's Exhibit 7)
10. The Appellant's child does not have functional issues as to the alignment of the child's jaw. (Appellant's testimony)
11. The Appellant's child does not have mental health issues. (Appellant's testimony)
12. Connecticut General Statutes § 17b-61 (a) provides that a final decision be issued within 90 days of a request for an administrative hearing. On [REDACTED] 2019, the OLCRAH received the Appellant's [REDACTED] 2019 postmarked hearing request. This

final decision would have become due by [REDACTED] 2019. This final decision is timely.

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 Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements...." Conn. Gen. Stat. § 17b-282e.

"Preliminary Handicapping Malocclusion Assessment Record" means the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment. Regs., Conn. State Agencies § 17-134d-35 (b)(3).

The Appellant's child's dental records as submitted to CTDHP do not support an objective score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.

3. Section 17b-282e of the Connecticut General Statutes provides in part:
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 Appellant's child does not meet the criteria found in Section 17b-282e of the Connecticut General Statutes for prior authorization of orthodontic treatment for an individual with an objective score of 26 points or less on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record* as the child does not have severe deviations affecting her oral facial structures.

The Appellant's child does not meet the criteria found in Section 17b-282e of the Connecticut General Statutes for prior authorization of orthodontic treatment for an individual with an objective score of 26 points or less on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record* as the child does not have severe mental, emotional or behavioral problems or disturbances.

4. Section 17b-259b (a) of the Connecticut General Statutes provides in part:
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.

CTDHP correctly determined that orthodontic treatment for the Appellant's child was not medically necessary.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

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

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.