

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

██████████
Signature Confirmation

Client ID # ██████████
Request # 142095

NOTICE OF DECISION

PARTY

Ms. ██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, BeneCare Dental Health 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 for ██████████, her minor child. The NOA stated that the severity of the child’s malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

On ██████████, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████.

██████████, the Appellant requested a continuance of the hearing, which OLCRAH granted.

On ██████████ OLCRAH issued a notice rescheduling the administrative hearing for ██████████.

On [REDACTED], in accordance with sections 17b-60, 17-61, and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were presented at the hearing:

[REDACTED], the Appellant
 Magdalena Carter, CTDHP Grievance & Appeals Representative
 Dr Joseph D'Ambrosio, CTDHP Dental Consultant, via telephone conference call
 Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the submission of evidence that the Appellant brought to the hearing and to allow CTDHP to review the case with the submission of the additional evidence. The record closed on [REDACTED]
 [REDACTED]

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization for orthodontic services through the Medicaid program for the Appellant's minor child was correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED] ("the child") whose date of birth is [REDACTED]. [REDACTED] is twelve years old. (Hearing record and Exhibit 1: Dental Claim form)
2. The child is a participant in the Medicaid program, as administered by the Department of Social Services ("DSS"). (Hearing Record)
3. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. On [REDACTED], BeneCare received a prior authorization request from Dr. [REDACTED] for orthodontics (braces) for the child. (Exhibit 1: Prior Authorization Request)
5. Dr. [REDACTED] submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 31points, dental models, photographs and X-rays of the child's mouth. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED])
6. Dr. [REDACTED] did not indicate on the scoring sheet that the child had severe deviations affecting the mouth and underlying structures. Dr. [REDACTED] indicated a "severe tongue thrusting habit."(Exhibit 2)

7. On [REDACTED], Dr. Robert Gange, DDS, BeneCare's orthodontic consultant, reviewed the X Rays, photographs and models submitted by the treating orthodontist and determined that the child scored 17 points on the Malocclusion Assessment Record. Dr. Gange noted that there were no severe deviations affecting the child's mouth or underlying structures. (Exhibit. 3: Dr. Gange's Malocclusion Assessment Record)
8. On [REDACTED], BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
9. On [REDACTED], the Appellant requested an administrative hearing regarding the denial of braces because of her son's psychological well-being and development. Her son was being bullied at school and it was affecting his attendance. (Exhibit 4: Hearing Request)
10. On [REDACTED] Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed the child's records and arrived at a score of 23 points on the Malocclusion Assessment Record. Dr. Drawbridge noted that there were no severe deviations affecting the child's mouth and underlying structures. (Exhibit 6: Dr. Drawbridge's Malocclusion Assessment Record)
11. The child was being treated by a psychologist. He was released from treatment in [REDACTED] of 2018. (Exhibit B: Letter from [REDACTED])
12. On [REDACTED], BeneCare issued a letter to the Appellant notifying her that the dentist's request for approval of braces for her child was denied for the following reasons: his score of 23 points was less than the 26 points needed for coverage; there was no presence found of any deviations affecting the mouth or underlying structures; there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the conditions of her teeth. (Exhibit 7: BeneCare determination letter of [REDACTED])
13. On [REDACTED], Dr. Vincent Fazzino, DDS, consultant for BeneCare, independently reviewed the child's records and arrived at a score of 18 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no severe deviations affecting the child's mouth and underlying structures and also that the provider's comments and narrative had been noted. (Exhibit 9: Dr. Fazzino's Malocclusion Assessment Record)
14. On [REDACTED], the day of the hearing, the Appellant provided a letter from the child's therapist with information regarding his mental health history and diagnosis. (Exhibit B)
15. On [REDACTED], Dr. Geoffrey Drawbridge reviewed the child's record a second time with the inclusion of the information regarding the mental health

issues and approved orthodontic treatment. (Exhibit 10: Dr. Drawbridge's scoring sheet and narrative dated [REDACTED] 2019)

16. On [REDACTED], CTDHP issued a notice to the Appellant that orthodontic services for her minor child were approved. (Exhibit 11: CTDHP letter of [REDACTED])
17. 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]. Therefore, this decision was due not later than [REDACTED]. However, the hearing record, which had been anticipated to close on [REDACTED], did not close until [REDACTED] because the Appellant had requested a continuance of the hearing and that the record remain open for the review of evidence that she had provided on the day of the hearing. Because of this 27day delay in the close of the hearing record arose from the Appellant's time frame in submitting evidence she wished to be considered, the final decision was not due until [REDACTED], and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. "The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
3. UPM § 1570.05(A) provides that the purpose of the Fair Hearing process is to allow the requester of the Fair Hearing to present his or her case to an impartial hearing officer if the requester claims that the Department has either acted erroneously or has failed to take a necessary action within a reasonable period of time.
4. UPM § 1570.25(C) provides in part that the administrative duties of Fair Hearing Official is to determine the issue of the hearing, consider all relevant issues, and render a Fair Hearing decision in the name of the Department, in accordance with the criteria in this chapter, to resolve the dispute.

5. CTDHP overturned their denial of the request for braces for the child.
6. There is no denial of services or dispute for the undersigned to adjudicate.

DISCUSSION

As the CTDHP reversed its initial decision to deny orthodontic services for the Appellant's child, there is no dispute and no issue for the hearing held on [REDACTED]

DECISION

The Appellant's appeal is **DISMISSED AS MOOT.**

Maureen Foley-Roy

Maureen Foley-Roy
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 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.