

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

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

Client ID # ██████████
Request # 142272

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2019, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of interceptive orthodontic treatment for ██████████ ██████████, her minor child (the “Child”) because orthodontia was not medically necessary as described in state law.

On ██████████, the Appellant requested an administrative hearing to contest the denial of prior authorization of interceptive orthodontic treatment for her child.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, the Appellant requested a continuance of the hearing for the purpose of gathering additional evidence. The request was granted.

On ██████████ 2019, (“OLCRAH”) issued a notice rescheduling 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:

██████████, the Appellant
Kate Nadeau, BeneCare’s Representative

Dr. Vincent Fazzino, Orthodontist, BeneCare Dental Consultant, by telephone
Maureen Foley-Roy , Hearing Officer

The hearing officer held the hearing record open at the request of the Appellant, who wished to submit additional evidence for the hearing and for another review by the Dental Health partnership. The record closed on [REDACTED], 2019.

STATEMENT OF THE ISSUE

The issue to be decided is whether BeneCare's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for her child as not medically necessary was correct and in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED], who was born on [REDACTED] and is currently 9 years old. (Hearing Record, Exhibit 1: Prior Authorization Request)
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 interceptive orthodontic treatment. (Hearing Record)
4. On [REDACTED] 2019, the Child's school held a planning and placement team meeting to conduct an annual review of the special education services that the Child receives, including speech therapy. (Appellant's Exhibit A: Notice of Planning and Placement Team Meeting and Appellant's testimony)
5. The Child has asthma and attention deficit issues. (Appellant's Exhibit C: Health Assessment form)
6. The child is self-conscious, sensitive and on the autism spectrum. He has been referred to a behavioral therapist and has an appointment on [REDACTED], 2019. (Appellant's testimony & Hearing Request)
7. During the 2018-2019 school year, the Child has made satisfactory progress in the following areas of speech: producing "l" consonant blends in words at the phrase level, producing the "sh" "j" and "ch" sound in all positions of words in conversational speech and producing the consonant "l" blends in words at the sentence level. (Appellant's Exhibit B: Progress Report)
8. On [REDACTED] [REDACTED] 2019, BeneCare received a request to complete interceptive orthodontic treatment for the child from the [REDACTED], the child's provider.

Models and x-rays of the child's mouth were used for the evaluation. The treating provider commented: "Upper left I in edge to edge traumatic occlusion. Parent wishes to submit. Midline off by one half lower incisor." The Child's provider did not find a deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet, open bite or an anterior impacted tooth. The Child's provider did not indicate the presence of other severe deviations affecting the mouth and underlying structures. (Exhibit 2: Preliminary Handicapping Assessment dated [REDACTED])

9. On [REDACTED] 2019, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed the child's x-rays and models of his teeth. The doctor commented: "Does not meet Phase One treatment guidelines. The anterior teeth are not end to end. There is no functional shift present." Dr. Monastersky did not find a deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet, open bite or an anterior impacted tooth. Dr. Monastersky did not indicate the presence of other severe deviations affecting the mouth and underlying structures. Dr. Monastersky's decision was that interceptive orthodontic treatment is not medically necessary for the child at this time. (Exhibit 3: Dr. Monastersky's Assessment dated [REDACTED] 2019)
10. On [REDACTED] 2019, BeneCare notified the Appellant that an appeal review determined that interceptive orthodontic treatment was not medically necessary for her minor child and the request was denied. (Exhibit 4: Notice for Denied Services dated [REDACTED] 2019)
11. On [REDACTED] [REDACTED] 2019, Dr. Robert Gange, a dental consultant for BeneCare, independently reviewed the child's models and x-rays. Dr. Gange did not find a deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet, open bite or an anterior impacted tooth. Dr. Gange commented that the child did not meet the interceptive criteria and that there was no functional shift. (Exhibit 7: Dr. Gange's Assessment)
12. On [REDACTED], 2019, CTDHP sent the Appellant a notice advising her that the denial of interceptive orthodontia for her child had been upheld. (Exhibit 8: Letter of [REDACTED], 2019)
13. On [REDACTED] an oral health assessment screening form was completed for the State of Connecticut Department of Education by [REDACTED]. The form indicated that the Child's dental examination was "normal". Risk Assessment was not rated and there were no risk factors described. (Appellant's Exhibit C: Health Assessment Record, page 3 Oral Health Assessment)
14. 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. The record was expected to close on ■, 2019 with the decision due on ■, 2019. However, on ■ 2019, the Appellant requested a continuance of the hearing. At the hearing held on ■, 2019, the Appellant requested that the hearing record remain open for the submission of additional evidence. Due to the 53 day continuances at the request of the Appellant, this decision is not due until ■, 2019 and therefore, is timely.

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) provide that orthodontic services 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. Connecticut General Statutes §17b-259b 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.
4. Connecticut General Statutes § 17b-259b(b) 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.
5. The child's models submitted by the treating provider do not support the

presence of any deviations affecting the mouth or underlying structures as required by state regulations for the authorization of comprehensive or interceptive orthodontia treatment.

BeneCare was correct to deny prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services as defined by state statute and regulation.

DECISION

The Appellant's appeal is **DENIED.**

A handwritten signature in cursive script that reads "Maureen Foley-Roy".

Maureen Foley-Roy
Hearing Officer

C: 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, 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 the Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 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 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.