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 # 142355

NOTICE OF DECISION PARTY



, Appellant

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") stating that the severity of the child's malocclusion did not meet the requirements in state law to approve the proposed treatment, and that orthodontia was not medically necessary.
On, 2019, the Appellant requested an administrative hearing to contest the denial of prior authorization of interceptive orthodontic treatment for her child.
On 2019, 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 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:

Kate Nadeau, BeneCare's Representative Dr. Vincent Fazzino, Orthodontist, BeneCare Dental Consultant, by telephone Maureen Foley-Roy, Hearing Officer

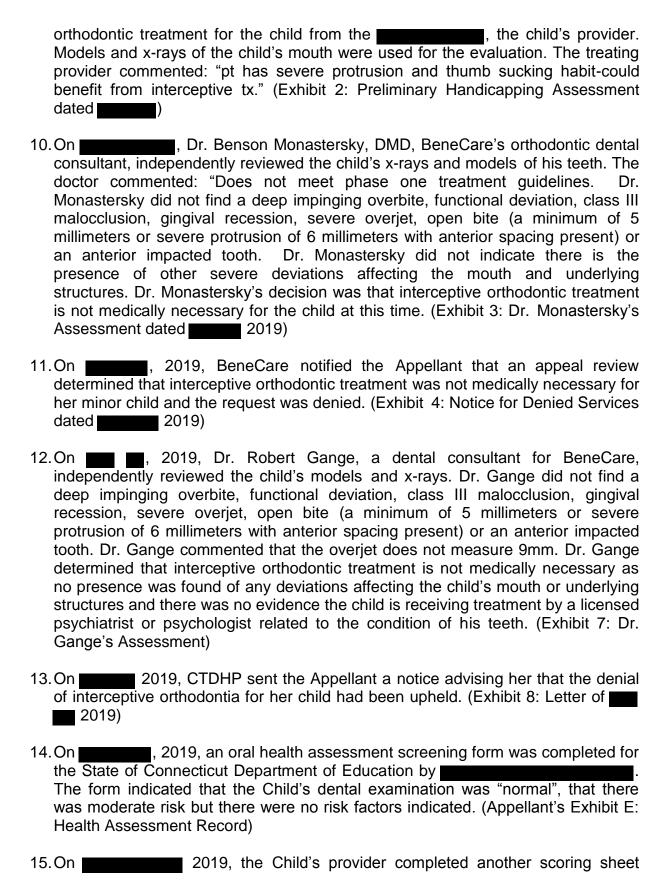
The hearing officer held the hearing record open at the request of the Appellant, who wished to submit additional evidence for the hearing and for another review by the Dental Health partnership. The record closed on 2019.

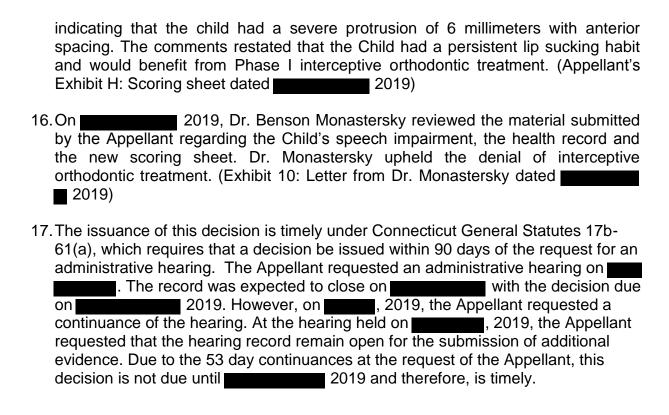
STATEMENT OF THE ISSUE

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, _____, who was born on and is currently 8 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. The Child receives special education services due to his speech or language impairment. (Appellant's Exhibit B: PPT Documents)
- 5. From May 2018 through May 2019, the Child improved his speech production and mastered the following tasks: produced the "KR" and "GR" sounds in the initial position of words, produced the "R" sound in the initial position of words and produced the "o" and "A" sounds in isolation and in combinations at the word level. (Appellant's Exhibit F: Progress Report)
- 6. The Child has made tremendous progress in his reading. His speech is intelligible and easily understood by his peers and adults. (Appellant's Exhibit B)
- 7. Based on the Child's performance, his speech services at school have been reduced from one hour to 30 minutes per week. (Appellant's Exhibit B)
- 8. The Child's speech is still characterized by sound substitutions and distortions. (Appellant's Exhibit G: 2019 letter from speech pathologist)
- 9. On 2019, BeneCare received a prior authorization claim for interceptive





CONCLUSIONS OF LAW

- 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.

DISCUSSION

The Appellant maintained that orthodontia was medically necessary for her child,
because of his speech issues, which she claimed were affecting his reading.
She provided evidence that receives speech therapy in school. The evidence
shows that both speech and his reading have improved. There was no
evidence tying speech issues to his dentition. The Appellant's dentist did not
indicate a need for orthodontia in paperwork that he completed for school regarding
oral health. The Appellant's orthodontist wrote that the Child "could benefit" from Phase
I treatment. While it is probably true that could benefit from orthodontic
treatment, it does not rise to the level of being medically necessary, which is what the
regulations require.

DECISION

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

Maureen Foley-Roy Hearing Officer

Maureen Foley. Roy

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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.