

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**

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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”) 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:

█, 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 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: [REDACTED] 2019 letter from speech pathologist)
9. On [REDACTED] 2019, BeneCare received a prior authorization claim for 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: "pt has severe protrusion and thumb sucking habit-could benefit from interceptive tx." (Exhibit 2: Preliminary Handicapping Assessment dated [REDACTED])

10. On [REDACTED], 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. Dr. Monastersky did not find a deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet, open bite (a minimum of 5 millimeters or severe protrusion of 6 millimeters with anterior spacing present) or an anterior impacted tooth. Dr. Monastersky did not indicate there is 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)
11. 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)
12. On [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 (a minimum of 5 millimeters or severe protrusion of 6 millimeters with anterior spacing present) or an anterior impacted tooth. Dr. Gange commented that the overjet does not measure 9mm. Dr. Gange determined that interceptive orthodontic treatment is not medically necessary as no presence was found of any deviations affecting the child's mouth or underlying structures and there was no evidence the child is receiving treatment by a licensed psychiatrist or psychologist related to the condition of his teeth. (Exhibit 7: Dr. Gange's Assessment)
13. 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] [REDACTED] 2019)
14. On [REDACTED], 2019, 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", that there was moderate risk but there were no risk factors indicated. (Appellant's Exhibit E: Health Assessment Record)
15. On [REDACTED] 2019, the Child's provider completed another scoring sheet

indicating that the child had a severe protrusion of 6 millimeters with anterior spacing. The comments restated that the Child had a persistent lip sucking habit and would benefit from Phase I interceptive orthodontic treatment. (Appellant's Exhibit H: Scoring sheet dated [REDACTED] 2019)

16. On [REDACTED] 2019, Dr. Benson Monastersky reviewed the material submitted by the Appellant regarding the Child's speech impairment, the health record and the new scoring sheet. Dr. Monastersky upheld the denial of interceptive orthodontic treatment. (Exhibit 10: Letter from Dr. Monastersky dated [REDACTED] 2019)
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]. The record was expected to close on [REDACTED] with the decision due on [REDACTED] 2019. However, on [REDACTED], 2019, the Appellant requested a continuance of the hearing. At the hearing held on [REDACTED], 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 [REDACTED] 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.**

### DISCUSSION

The Appellant maintained that orthodontia was medically necessary for her child, [REDACTED] because of his speech issues, which she claimed were affecting his reading. She provided evidence that [REDACTED] receives speech therapy in school. The evidence shows that both [REDACTED]'s speech and his reading have improved. There was no evidence tying [REDACTED] 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 [REDACTED] 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*

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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.