

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 # 1436333

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, 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 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 ██████████ 2019, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

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 because she did not have transportation on that day. OLCRAH granted the continuance.

On ██████████ 2019, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2019.

On [REDACTED], 2019, 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

[REDACTED], the Appellant's sister

Magdalena Carter, CTDHP Grievance & Appeals Representative

Paulina Lopez, CTDHP Grievance & Appeals Representative

Dr. Joseph D'Ambrosio, CTDHP Dental Consultant, via telephone conference call

Maureen Foley-Roy, Hearing Officer

The Appellant requested that the hearing record remain open for the submission of additional evidence and a subsequent additional review. The record closed on [REDACTED], 2019.

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 [REDACTED] ("the Child) whose date of birth is [REDACTED]. The child is eleven 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 [REDACTED] for orthodontics (braces) for the Child. (Exhibit 1)
5. [REDACTED] [REDACTED] submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 23 points, dental models, photographs and X-rays of the Child's mouth. The dentist indicated that the child had a severe deviation affecting his mouth. The dentist commented the presence of a deep bite and that #15 was possible impacted. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2019)

6. On [REDACTED] 2019, Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed the X Rays and models submitted by the treating orthodontist and determined that the Child scored 17 points on the Malocclusion Assessment Record. Dr. Monastersky noted that there were no severe deviations affecting the Child's mouth or underlying structures. Dr. Monastersky commented that the bite was not deep enough to score and that #13 has erupted. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)
7. On [REDACTED], 2019, BeneCare issued a notice denying the request for braces for the Child. (Exhibit 4: Notice of Action for Denied Services)
8. On [REDACTED] 2019, Dr. Geoffrey Drawbridge, DDS, consultant for BeneCare, independently reviewed the Child's records and also arrived at a score of 18 points on the Malocclusion Assessment Record. Dr. Drawbridge did not note if there were severe deviations affecting the child's mouth and underlying structures. (Exhibit 7: Dr. Drawbridge's Malocclusion Assessment Record)
9. On [REDACTED], 2019, Dr. Drawbridge noted that #15 eruption progress was within acceptable limits, ie inclination with potential leeway space @#13 and that impaction was not anticipated. (Exhibit 8: Letter from Dr. Drawbridge dated [REDACTED], 2019)
10. The Child's baby teeth came out early due to an accident and when the adult teeth came in, they came in with an overbite. (Appellant and her sister's testimony)
11. The Child sees a counselor weekly regarding anger issues relating to his self esteem and the problems with his appearance due to his teeth. (Appellant's testimony)
12. On [REDACTED] 2019, 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 18 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 his teeth. (Exhibit 9: BeneCare determination letter of [REDACTED] 2019)
13. On [REDACTED] 2019, Dr. Robert Gange reviewed the models and X rays of the child's teeth in conjunction with information from the Child's counselor and approved orthodontic treatment. (Exhibit 11: Dr. Gange's scoring sheet dated [REDACTED], 2019)

14. The issuance of this decision is timely under Connecticut General Statute Section 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 hearing was continued for 24 days because the Appellant requested a continuance due to transportation issues. When the hearing was held, the Appellant requested an additional fifteen day continuance for the admission of additional evidence and a subsequent review. This decision is due no later than [REDACTED], 2019 and therefore, is 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], 2019.

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.