

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

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

Client ID # ██████████
Request # 145723

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, Connecticut Dental Health Partnership/Benecare Dental Plans (“Benecare”) sent ██████████ (the “child”) a notice of action denying a request for prior authorization of interceptive orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On ██████████ 2019, ██████████ (the “Appellant”) requested an administrative hearing to contest Benecare’s denial of prior authorization of interceptive orthodontia treatment for the child.

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

On ██████████ 2019, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals called in for the hearing:

██████████, Appellant
Rosario Monteza, Benecare Representative
Dr. Benson Monastersky, DMD, Benecare Dental Consultant
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether Benecare's denial through the Medicaid program of prior authorization for the child's interceptive orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [REDACTED] (the "Appellant") is the child's mother. (Hearing Record)
2. The child is [REDACTED] years old born on [REDACTED]. (Exhibit 1: Dental Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record and Exhibit 5: Hearing Request)
3. The child is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
4. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
5. [REDACTED] (the "treating orthodontist") is the child's treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
6. On [REDACTED] 2019, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for the child. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
7. On [REDACTED] [REDACTED] 2019, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 3 points, dental models and x-rays. The treating orthodontist indicated the child meets the criteria for approval of interceptive orthodontic treatment because she has a functional deviation of a midline shift of at least a half lower incisor with unilateral crossbite on the malocclusion assessment record. (Hearing Summary and Exhibit 2: Preliminary Malocclusion Assessment Record)
8. A functional deviation occurs when an individual opens and closes their mouth the jaw shifts to the right or left side rather than up and down. (Dental Consultant's Testimony)

9. A dental midline is the line between the two upper front teeth and the two lower front teeth. A midline shift occurs when the upper and lower incisors, the four front teeth, do not line up properly. (Dental Consultant's Testimony)
10. A unilateral crossbite occurs when there is a misalignment of a tooth or teeth in the dental arch. (Dental Consultant's Testimony)
11. On [REDACTED] 2019, Dr. Benson Monastersky, orthodontic dental consultant on behalf of Benecare, independently reviewed the child's models and x-rays. On a Preliminary Handicapping Malocclusion Assessment Record form Dr. Monastersky commented, "Does not meet phase one treatment guidelines. Functional deviation is nor evident or less than 3 mm." Dr. Monastersky found no evidence of a deep impinging overbite, no evidence of a functional deviation, no evidence of a class III malocclusion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet of more than 9 millimeters, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky did not find evidence of severe irregular placement of her teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Monastersky found no evidence presented stating the presence of emotional issues directly related to her dental situation and determined that interceptive orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)
12. On [REDACTED] 2019, Benecare denied the treating orthodontist's request for prior authorization of interceptive orthodontic services for the reason that the documents submitted by your dentist provided no evidence that interceptive orthodontic treatment is medically necessary under the conditions set by the Department. Specifically, interceptive orthodontic treatment is covered only if medically necessary and the documents submitted are not complete enough to make a determination of medical necessity. (Exhibit 4: Notice of Action for Denied Services or Goods)
13. On [REDACTED], 2019, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
14. On [REDACTED], 2019, Dr. Vincent Fazzino, DMD, Benecare's orthodontic dental consultant, independently reviewed the child's models and x-rays and completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no evidence of a deep impinging overbite, no evidence of a functional deviation, no evidence of a class III malocclusion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet of more than 9 millimeters, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino commented,

“Does not meet phase I guidelines.” Dr. Fazzino did not find evidence of severe irregular placement of the child’s teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Fazzino found no evidence presented stating the presence of emotional issues directly related to her dental situation and determined the request for limited orthodontic treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)

15. On [REDACTED] 2019, Benecare notified the Appellant that the request for interceptive orthodontic treatment was denied because no evidence was found to support the presence of severe deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child’s teeth. (Exhibit 7: Determination Letter)
16. A qualified psychiatrist or psychologist is not treating the child for mental, emotional, or behavioral problems, disturbances or dysfunctions as defined by the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association that affects the child’s daily functioning. (Appellant’s Testimony)
17. The child has a medical diagnosis of hearing loss and wears hearing aids. The child received special education and speech services through [REDACTED] 2015. (Appellant’s Testimony and Exhibit 9c: Social Work Letter)
18. On [REDACTED] 2019, the Appellant submitted a letter from the child’s social worker at her school. The social worker writes, “She was screened in [REDACTED] 2019 per 504 team’s request and speech, language, and articulation skills were determined at that time to be within the normal limits.” (Exhibit 9c: Social Worker Letter)
19. On [REDACTED], 2019, Benecare reviewed the social worker’s letter. Dr. Fazzino writes, “This letter does not alter the malocclusion assessment record.” (Exhibit 9b: Letter of Response)
20. The Appellant seeks interceptive orthodontia treatment for her daughter to expand her daughter’s jaw. (Appellant’s Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2(8) of the Connecticut General Statutes (“Conn. Gen. Stat.”) states that the Department of Social Services is the designated as the

state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Regulations of Connecticut State Agencies ("Regs., Conn. State Agencies") § 17-134d-35(a) provides that orthodontic services will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations.
3. State statute provides as follows:

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.

Conn. Gen. Stat. § 17b-259b(a)

4. "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." Conn. Gen. Stat. § 17b-259b(b)
5. State statute provides as follows:

The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior

authorization requirements. If a recipient's score on the Salzman Handicapping Malocclusion Index is less than twenty-six points, the Department of Social Services shall consider additional substantive information when determining the need for orthodontic services, including (1) documentation of the presence of other severe deviations affecting the oral facial structures; and (2) the presence of severe mental, emotional or behavioral problems or disturbances, as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, that affects the individual's daily functioning. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation.

Conn. Gen. Stat. § 17b-282e

6. "Preliminary Handicapping Malocclusion Assessment Record means the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment." Regs., Conn. State Agencies § 17-134d-35(b)(3)
7. State regulation provides as follows:

Prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment.

Regs., Conn. State Agencies §17-134d-35(f)(1)

8. State statute provides as follows:

Upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by

the department or an entity acting on behalf of the department in making the determination of medical necessity.

Conn. Gen. Stats. § 17b-259b(c)

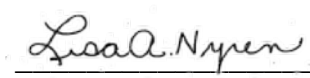
9. The study models and x-rays submitted by the treating orthodontist do not clearly support the presence of deviations affecting the mouth and the underlying structures as per state regulations for the authorization of limited orthodontia treatment.
10. Benecare correctly determined that the child's malocclusion did not meet the criteria for approval of interceptive orthodontic treatment.
11. Benecare was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state regulations.
12. Benecare was correct to deny prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statutes and regulations.
13. On [REDACTED], 2019, Benecare correctly issued the Appellant a notice of action denying the Appellant's request for interceptive orthodontia treatment for the child.

DISCUSSION

Although the child has a medical diagnosis of hearing loss, there was no medical evidence presented that orthodontic treatment would ameliorate the loss of hearing or improve the child's ability to communicate. On the contrary, documentation presented indicated the child's speech, language, and articulation skills were determined to be within normal limits. Benecare was correct to deny interceptive orthodontic treatment as not medically necessary as the child's malocclusion does not meet the criteria for orthodontic treatment.

DECISION

The Appellant's appeal is denied.

Handwritten signature of Lisa A. Nyren in cursive script.

Lisa A. Nyren
Hearing Officer

Pc: Diane D'Ambrosio, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita LaRosa, CTDHP, P.O. Box 486 Farmington, CT 06032

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.