

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 # 146083

NOTICE OF DECISION

PARTY

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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, 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:

██████████, the Appellant
Kate Nadeau, CTDHP Grievance & Appeals Representative
Dr. Vincent Fazzino, CTDHP Dental Consultant, via telephone conference call
Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for another dental review with the addition of information submitted by the Appellant on the day of the hearing. The hearing 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 the [REDACTED] (the "child") whose date of birth is [REDACTED]. [REDACTED] is fourteen 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. In 2018, CTDHP denied prior authorization of orthodontia for the child. The child's provider and the Appellant decided that they would wait a year and see how the child's growth affected his mouth and the need for braces. This year they determined that the year of growth had not positively affected the child's mouth and that he still needed braces. (Appellant's testimony)
5. On [REDACTED], 2019, BeneCare received a prior authorization request from Simply Orthodontics for orthodontics (braces) for the child. (Exhibit 1)
6. Simply Orthodontics submitted a Preliminary Handicapping Malocclusion Assessment Record with a score of 32 points, dental models, X-rays and photographs of the child's mouth. The X-rays that were submitted were from [REDACTED], 2018. (Exhibit. 2: Malocclusion Assessment Record signed [REDACTED] 2019)
7. On [REDACTED] [REDACTED], 2019, Dr. Benson Monastersky, DMD, BeneCare's orthodontic consultant, reviewed the X-Rays, photographs and models submitted by the treating orthodontist and determined that the child scored 22 points on the Malocclusion Assessment Record. Dr. Monastersky noted that there were no severe deviations affecting the child's mouth or underlying structures. (Exhibit. 3: Dr. Monastersky's Malocclusion Assessment Record)

8. On [REDACTED] 2019, BeneCare issued a notice denying the request for braces for the child. (Exhibit 4: Notice of Action for Denied Services)
9. On [REDACTED] 2019, Dr. Vincent Fazzino, consultant for BeneCare, independently reviewed the child's records and also arrived at a score of 21 points on the Malocclusion Assessment Record. Dr. Fazzino noted that there were no severe deviations affecting the child's mouth and underlying structures. Exhibit 6: Dr. Fazzino's Malocclusion Assessment Record)
10. The child is self-conscious about his appearance but does not see a therapist. (Appellant's testimony)
11. 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 21 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 7: BeneCare determination letter of [REDACTED], 2019)
12. On [REDACTED] 2019, the day of hearing, the Appellant provided BeneCare with a letter from the child's dentist who stated that the child had severe crowding which was affecting his chewing, ability, occlusion and maintenance of proper oral hygiene. The dentist indicated that he had referred the child to an orthodontist for further evaluation and treatment. (Appellant's Exhibit B: [REDACTED], 2019 letter from [REDACTED], DMD)
13. On [REDACTED] 2019, the day of the hearing, the Appellant provided BeneCare with a letter from the child's orthodontist which stated that she was recommending comprehensive orthodontic treatment for the child due to his class II division I left malocclusion with overjet and overbite, proclined maxillary incisors, moderate crowding, buccal crossbite, insufficient space for unerupted teeth, numbered 6, 11 and 22. Class skeletal pattern and strained lip closure. The orthodontist stated that without treatment, [REDACTED] was at increased risk for future periodontal problems, temporomandibular joint disorder, trauma to proclined incisors, excessive tooth wear or fracture and self-esteem concerns. (Appellant's Exhibit C: letter from [REDACTED], DMD, MS)
14. On [REDACTED] 2019, Dr. Robert Gange, DDS, reviewed the child's models and X rays in conjunction with the letter from the child's dentist and orthodontist and arrived at a score of 24 points. Dr. Gange noted that there were no severe deviations of the child's mouth and underlying structures. Dr. Gange states that all of the specific details in the providers letter had been scored. (Exhibit 9: Dr. Gange's scoring assessment sheet)

15. 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 hearing officer held the record open for an additional fifteen days for the submission of evidence the Appellant provided on the day of the hearing and an additional review. This decision is due not 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. State regulations provide that orthodontic services provided 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. For the purposes of the administration of the medical assistance programs by the Department, "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. The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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. [Sec. 17b-282e of the Supplement to the General Statutes]
5. State regulations provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Conn. Agencies Regs. §17-134d-35(f)]
6. BeneCare correctly found that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.

Because 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, BeneCare correctly determined that the child did not have a deviation of such severity that it would cause irreversible damage to the teeth and underlying structures if left untreated.

BeneCare correctly determined that there was no evidence of emotional issues directly related to the child's teeth.

BeneCare correctly determined that orthodontia was not medically necessary because it is not clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease.

Benecare correctly denied the request for prior authorization of orthodontia as not medically necessary.

DISCUSSION

The Appellant was given the impression by her child's provider that her child needed braces because there wasn't room in his mouth for his incisors to erupt. However, there was no evidence provided. All of the dentists, including the

child's own provider scored the teeth that the provider refers to as "unerupted" as either crowded or rotated which indicates that the teeth actually are present in the child's mouth. It is possible that the teeth are not fully erupted. Each of the dentists noted crowding of the child's teeth. While it appears that the child could benefit from orthodontia, 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

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.