

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

██████████ 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 151865

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2020, Connecticut Dental Health Partnership (“CTDHP”), the Department of Social Services’ contractor, issued ██████████ (the “Appellant”) a *Notice of Action* denying prior authorization of orthodontic treatment for ██████████ (the “child”), her minor child.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2020 postmarked hearing request.

On ██████████ 2020, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for ██████████ 2020.

On ██████████ 2020, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following attended the proceeding by video and telephone conferencing:

██████████, Appellant
Rosario Monteza, CTDHP’s representative
Brett Johnson, D.M.D., CTDHP’s witness
Eva Tar, Hearing Officer

The hearing record closed on ██████████ 2020.

STATEMENT OF ISSUE

The issue is whether CTDHP correctly determined that the severity of the child's malocclusion was insufficient to meet the criteria set in state statute for HUSKY Health program payment of orthodontic treatment.

FINDINGS OF FACT

1. The child is ■ years old. (Appellant testimony)
2. The child has HUSKY Health medical coverage. (CTDHP Exhibit 4)
3. The child has the following diagnoses: ■
■.
(Hearing request)
4. CTDHP is the Department of Social Services' dental subcontractor. (CTDHP representative testimony)
5. CTDHP received Dr. ■ (the "treating orthodontist")'s request for prior authorization for orthodontic treatment for the child. (CTDHP Exhibit 1)
6. On ■, 2020 and ■ 2020, CTDHP denied the treating orthodontist's request for prior authorization of the child's orthodontic treatment. (CTDHP's Exhibits 4 and 9)
7. On ■, 2020, the Appellant submitted additional documentation to CTDHP. (Hearing record)
8. On ■ 2020, CTDHP granted prior authorization of the child's orthodontic treatment. (CTDHP correspondence: ■)
9. Section 17b-61 (a) of the Connecticut General Statutes, as provided in the *2020 Supplement to the General Statutes of Connecticut*, provides in part that "the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60...." On ■ 2020, the OLCRAH received the Appellant's ■ 2020 postmarked hearing request. This final decision would have become due by ■ 2020. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-282e of the Connecticut General Statutes provides the conditions under which the Department will cover orthodontic treatment for a Medicaid recipient under twenty-one years of age.

Section 17b-259b (a) of the Connecticut General Statutes defines the terms “medically necessary” and “medical necessity” for the purposes of the Department’s administration of the medical assistance program.

“Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested 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).

CTDHP acted within its authority to review the treating orthodontist’s request for prior authorization for the child’s orthodontic treatment for the purpose of determining whether the severity of the child’s dental malocclusion met the threshold identified in Sections 17b-282e and 17b-259b of the Connecticut General Statutes.

3. “When the actions of the parties themselves cause a settling of their differences, a case becomes moot.” *McDonnell v. Maher*, 3 Conn. App. 336 (Conn. App. 1985), citing, *Heitmuller v. Stokes*, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

CTDHP’s [REDACTED] 2020 grant of prior authorization for the child’s orthodontic treatment rendered the issue of this hearing moot.

DECISION

The Appellant’s appeal is moot. CTDHP has granted prior authorization for the child’s orthodontic treatment.

If it has not already done so, CTDHP will issue formal notice of its grant of prior authorization to the Appellant and the treating orthodontist.

Eva Tar-electronic signature
Eva Tar
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 Legal Counsel, Regulations, and Administrative Hearings, 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 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.