

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████, 2020  
Signature Confirmation

Client ID ██████████  
Request #155094

NOTICE OF DECISION  
PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2020, Benecare Dental Plans (“Benecare”) sent ██████████  
██████████ (the “Appellant”) a Notice of Action (“NOA”) stating that it had denied a  
request for prior authorization of interceptive orthodontic treatment for ██████████  
██████████, because the requested service was not medically necessary.

On ██████████, 2020, the Appellant requested an administrative hearing to contest  
the Department’s denial of prior authorization of interceptive orthodontic  
treatment.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative  
Hearings (“OLCRAH”) issued a notice scheduling the 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, OLCRAH held an  
administrative hearing via telephone conference.

The following individuals were participated at the hearing:

████████████████████, Appellant  
Rosario Monteza, Dental Plans, Department representative  
Dr. Joseph D’Ambrosio, Clinical Consultant for Benecare  
Miklos Mencseli, Hearing Officer

The hearing officer held the record open to allow the Appellant to submit  
additional evidence to CTDHP for their review and comment.

On [REDACTED], 2020, the hearing officer closed the record.

### **STATEMENT OF THE ISSUE**

The issue is whether Benecare's denial of prior authorization through the Medicaid program for the Appellant's child's orthodontic services is correct because such services are not medically necessary.

### **FINDINGS OF FACT**

1. [REDACTED] is a [REDACTED] year old participant in the Medicaid program, as administered by the Department of Social Services through Benecare, its contractor.
2. [REDACTED] is the Appellant's treating orthodontist ("treating orthodontist"). (Dept. Ex. 1A)
3. On [REDACTED], 2020, the treating orthodontist completed diagnostic casts of the child's teeth. (Dept. Ex. 2A)
4. The treating orthodontist commented: "Patient has upper & lower crowding with deep impinging crossbite. Patient has mixed dentition. Patient needs Phase One interceptive orthodontic treatment." (Exhibit 2A)
5. On [REDACTED], 2016, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for the child. (Summary)
6. Interceptive orthodontic treatment is the placing of a fixed appliance.
7. On [REDACTED], 2020, Dr. Robert Gange, Benecare's orthodontic dental consultant, independently reviewed the child's models and x-rays. (Dept. Ex. 3A)
8. Dr. Gange found no evidence of severe irregular placement of her teeth within the dental arches and no irregular growth or development of the jaw bones. There was no evidence presented of emotional issues related to the child's mouth. (Summary)
9. Dr. Gange commented on the assessment record; "Does not meet Phase One treatment guidelines. Provider comments scored. No evidence of deep impinging overbite." (Dept. Ex. 3A)
10. On [REDACTED] 2020, Benecare denied the treating orthodontist's request for prior authorization for interceptive orthodontic treatment for the reason that no evidence that the requested service met the "medically

necessary"/"medical necessity" care conditions set by the Department. (Dept. Ex. 4A, 4B)

11. On [REDACTED], 2020, the Appellant filed a request for an administrative hearing. (Dept. Ex. 5A, 5B)
12. On [REDACTED], 2020, Dr. Vincent Fazzino, the dental consultant for CTDHP, reviewed the child's models and x-rays. (Summary)
13. Dr. Fazzino found no evidence of severe irregular placement of her teeth within the dental arches and no irregular growth or development of the jaw bones. There was no evidence presented of emotional issues directly related to the child's dental situation. (Summary)
14. Dr. Fazzino commented on the assessment record; "Does not meet Phase I guidelines." (Dept. Ex. 6A)
15. Dr. Fazzino under the section for Criteria for Approval of Interceptive Orthodontic treatment on the assessment record checked "NO" for "Deep impinging overbite (lower incisors hit palatal tissue behind upper incisors or upper incisors hit labial tissue of lower incisors) and Functional Deviation – Midline shift of at least a half lower incisor with unilateral crossbite." (Dept. Ex. 6A)
16. On [REDACTED], 2020, Benecare notified the Appellant that orthodontic treatment was denied due to 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 condition of your teeth. (Dept. Ex. 7A, 7B)
17. [REDACTED] does not meet the Phase I guidelines as she does not have gingival recession of 2 to 3 millimeters or greater in relation to her crossbite. (Dr. D'Ambrosio Testimony)
18. The treating orthodontist does not mention recession on his *Preliminary Handicapping Malocclusion Assessment Record* sheet. (Dept. Ex. 2A, Dr. D'Ambrosio Testimony)
19. Regarding the deep impinging crossbite. The two reviewers did not see the lower incisors hit the palatal tissue behind the upper incisors or upper incisors hit labial tissue of lower incisors. (Dr. D'Ambrosio Testimony)
20. [REDACTED] does not qualify for interceptive orthodontic treatment based on the *Preliminary Handicapping Malocclusion Assessment Record* and no medical documentation was submitted to substantiate

medically necessary/medical necessity. (Dept. Ex. 2A, 3A, 6A, Dr. D'Ambrosio's Testimony)

21. No current documentation was provided that [REDACTED] is being treated by a qualified psychiatrist or psychologist for related mental emotional or behavior problems, disturbances or dysfunctions.
22. No documentation was provided that [REDACTED] has medical issues.
23. The Appellant did not submit any additional documentation to CTDHP for review.
24. 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] 2020. Therefore, this decision is due no later than [REDACTED] 2020.

However, at the request of the Appellant, the hearing record was left opened for the Appellant to submit additional evidence, which caused a [REDACTED]-day delay. Because this [REDACTED]-day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2020, and is therefore timely.

### **CONCLUSIONS OF LAW**

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
2. "Medically necessary" and "medical necessity" defined. Notice of denial of services. Regulations. (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.

- (b) 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.
  - (c) 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.
3. State regulations provide that orthodontic services for services provided for individuals under 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)]
  4. State regulations provides, in relevant part as follows: “the Department shall consider additional information of a substantial nature about the presence of other severe deviations affecting the mouth and underlying structures. Other deviations shall be considered to be severe if, left untreated, they would cause irreversible damage to the teeth and underlying structures.” [Conn. Agencies Regs. §17-134d-35(e)(1)]
  5. State regulations also provides, in relevant part as follows: “Department shall consider additional information of a substantial nature about the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions, as defined in the most current edition of the Diagnostic Statistical Manual of the American Psychiatric Association, and which may be caused by the recipient’s daily functioning. The Department will only consider cases where a diagnostic evaluation has been performed by a licensed psychiatrist or licensed psychologist who has accordingly limited his practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial deformity is related to the child’s mental, emotional, and/or behavior problems, and the orthodontic treatment is necessary, and, in this case, will

significantly ameliorate the problems.” [Conn. Agencies Regs. §17-134d-35(e)(2)]

6. In [REDACTED] case, the study models submitted for prior authorization do not support evidence of severe problems affecting the mouth, which left untreated, would cause irreversible damage.
7. In [REDACTED] case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that the child receive orthodontic treatment to significantly ameliorate her child’s mental, emotional, and or behavior problems, disturbances or dysfunctions.
8. The Department was correct to find that [REDACTED] malocclusion did not meet the medical necessity criteria for interceptive orthodontic treatment, as established in state regulations.


### DISCUSSION

The treating orthodontist did not provide documentation to establish medical necessity for [REDACTED] to warrant interceptive orthodontic treatment. No documentation was provided that [REDACTED] has severe problems affecting the mouth which, if left untreated, would cause irreversible damage.

Based on the assessments and documentation submitted for [REDACTED] she does not meet the criteria of medically necessary or medical necessity for approval of Phase I interceptive orthodontic treatment.

### DECISION

The Appellant’s appeal is **DENIED**.



Miklos Mencseli  
Hearing Officer

- C: Musa Mohamud, Operations Manager, DSS R.O. # 10 Hartford  
Diane D’Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486,  
Farmington, CT 06034

### **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.