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

[redacted] **2020**
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # 162817

NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2020, CT Dental Health Partnership/BeneCare Dental Health Plans ("BeneCare"), the Dental Administrator for the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of orthodontia for the Appellant's child, [redacted] ("the Child"). The NOA informed the Appellant that orthodontia for the Child was not medically necessary because the severity of the Child's malocclusion did not meet requirements set in state statute and regulations for medical necessity.

On [redacted], 2020, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On [redacted] 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2020.

On [redacted], 2020, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing.

The following individuals were present at the hearing:

[redacted], Appellant
Katie Nadeau, CTDHP's Representative
Dr. Joseph D'Abrosio CTDHP's Clinical Consultant, by telephone
Swati Sehgal, Hearing Officer

The hearing record remained open for the submission of additional information. Additional information was received and the hearing record was closed on [redacted], 2020

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for the Child's orthodontic services was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the Child's mother. (Hearing Record)

2. The Child is [redacted] years old (D.O.B. [redacted]). (Exhibit 1: Prior Authorization Claim Form, Appellant's Testimony)

3. The Child is a participant in the Medicaid program, as administered by the Department of Social Services. (Hearing Record, Exhibit1: Orthodontia Services Claim Form)

4. The Connecticut Dental Health Partnership, ("CTDHP") also known as BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)

5. [redacted] is Child's treating orthodontist (the "treating orthodontist"). (Hearing record, Exhibit 1: Orthodontia Services Claim Form)

6. On [redacted] 2020, the treating orthodontist requested prior authorization to complete orthodontic services for the Child. (Hearing record, Exhibit 1: Orthodontia Services Claim form)

6. On [redacted] 2020, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of twenty-one (21) points, dental models, and X-rays of the Child's mouth. (Hearing record, Exhibit 2: Malocclusion Assessment Record)

7. On [redacted], 2020, Dr. Benson Monastersky, CTDHP's orthodontic dental consultant, independently reviewed models and x-rays of the Child's mouth and arrived at a score of twenty-one (21) points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Montastersky found no presence of severe deviations affecting the mouth and underlying structures. There was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the Child's teeth. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)

8. On [redacted], 2020, CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of the Child's mouth was less than the twenty-six points needed for coverage and that there is no substantial information about the presence of severe deviations affecting the mouth and underlying structures. (Exhibit 4: Notice of Action for Denied Services or Goods)

9. On [redacted] 2020, the Appellant requested an administrative hearing on the denial of braces for the Child. (Exhibit 5: Hearing request)

10. On [redacted], 2020, pursuant to the Appellant's appeal filed on [redacted] 2020, Dr. Vincent Fazzino, a Dental Consultant for CTDHP conducted an appeal review of the Child's dental records and models and arrived at a score of twenty (20) points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the mouth and underlying structures. 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: Preliminary Handicapping Malocclusion Assessment Record)

11. On [redacted] 2020, CTDHP notified the Appellant that the Child's score of twenty (20) points did not meet the criteria for orthodontic treatment. (Exhibit 8: Letter Regarding Orthodontic Service)

12. On [redacted] 2020, the day of hearing the Appellant provided a written statement, a letter from the child's school counselor, a letter from Danbury Hospital Dental Services, and a photo of the child's teeth. (Exhibit A: Appellant's statement, Exhibit B: Photo of child's teeth, Exhibit C: Letter from School Counselor, Exhibit D: Letter from Danbury Hospital)

13. On [redacted] 2020, CTDHP was advised to conduct the third review.

14. On [redacted] Dr. Geoffrey Drawbridge, a dental consultant for CTDHP, reviewed the Child's record with the inclusion of additional information submitted by the Appellant. Dr. Drawbridge stated that the narrative submitted implicates that symptoms may or may not be associated with a dental problem.

Dr. Drawbridge further stated that symptoms exceed the scope of the Salzmann Handicapping Malocclusion Index and require the diagnosis of the child psychologist or psychiatrist demonstrating a definite contribution of a dental problem to a behavioral or emotional problem. Dr. Drawbridge found no evidence of severe problems affecting the mouth which, if left untreated, would cause irreversible damage. Dr. Drawbridge stated that pending documentation which confirms the contribution of a dental discrepancy to an ongoing behavioral or emotional problem, orthodontic treatment with less than 26 points, is not approved. (Exhibit 10: Dr. Drawbridge's comments, [redacted]/20)

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], 2020. Therefore, this decision was not due later than [redacted] 2020. However, the hearing record was left open for submission of additional information for 10 days, because this 10-day delay resulted from the Appellant's request, this decision is not due until [redacted], and is therefore timely.

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.

2. Connecticut Agencies Regulations §17-134d-35(a) provides 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.

3. Connecticut General Statutes §17b-259b provides (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.

4. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.

5. Connecticut General Statutes Sec. 17b-282e provides that 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 Salzmann 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.

6. CTDHP correctly determined that the models submitted for prior authorization do not meet the requirement of a 26 point score on the preliminary assessment. There is no presence of severe deviations affecting the mouth and underlying structures.

7. CTDHP correctly determined that 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 mental, emotional, and or behavior problems, disturbances, or dysfunctions.

8. CTDHP correctly denied the prior authorization because the Child does not meet the medical necessity criteria for orthodontic services, accordance with state statutes and regulations.

DISCUSSION

The treating orthodontist scored the malocclusion of the Child's teeth to equal twenty-one points. Two dentists in blind reviews independently assessed the Child's models and scored the malocclusion to equal twenty-one and twenty points respectively. It is

reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

The Appellant provided additional information at the time of hearing which was given to CTDHP for the third review. The Dentist at CTDHP reviewed the submitted information and determined that this information does meet the criteria to receive orthodontia and therefore orthodontic treatment is not approved.

DECISION

The Appellant's appeal is **DENIED**.

Swati Sehgal
Hearing Officer

Pc: Magdalena Carter, Connecticut Dental Health Partnership
Rita LaRosa, Connecticut Dental Health Partnership

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, 165 Capitol Avenue, 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.