

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

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

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

**NOTICE OF DECISION**  
**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2020, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ ██████████, the Appellant’s son, a notice of action denying a request for prior authorization of orthodontia, indicating that the severity of his malocclusion did not meet the criteria set in state regulations to approve the proposed treatment.

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

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.

The following individuals were present at the hearing:

██████████, the Appellant  
Kate Nadeau, Grievance and Appeals Representative, CTDHP  
Ximena Diaz, Interpreter  
Dr. Vincent Fazzino, Dental Consultant, CTDHP’s Representative  
Roberta Gould, Hearing Officer

**STATEMENT OF THE ISSUE**

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

## FINDINGS OF FACT

1. [REDACTED] (D.O.B. [REDACTED]) is a participant in the Medicaid program, as administered by the Department. (Exhibit 1: Prior authorization dental claim form and Hearing summary)
2. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
3. [REDACTED] is [REDACTED] treating orthodontist (the "treating orthodontist"). (Exhibit 1 and Hearing summary)
4. On [REDACTED], 2020, the treating orthodontist requested prior authorization to complete orthodontic services for Jayden. (Exhibit 1 and Hearing summary)
5. On [REDACTED], 2020, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score of 16 points, dental models and x-rays of [REDACTED] mouth. (Exhibit 2: Malocclusion Assessment Record and Hearing summary)
6. On [REDACTED] 2020, Dr. Vincent Fazzino, D.M.D., CTDHP's orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 13 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no existence of severe irregular placement of [REDACTED] teeth within the dental arches or of irregular growth or development of the jaw bones. There was no evidence of emotional issues directly related to his mouth. Dr. Fazzino commented "Does not meet code D8080 treatment guidelines. Please submit case for Phase I treatment." (Exhibit. 3: Preliminary Handicapping Malocclusion Assessment record and Hearing summary)
7. On [REDACTED], 2020, CTDHP sent a Notice of Action letter to [REDACTED] explaining that he did not qualify for orthodontic services because it was not medically necessary. (Exhibit 4: Notice of Action for Denied Services and Hearing summary)
8. On [REDACTED] 2020, the Appellant requested an administrative hearing regarding CTDHP's denial of orthodontia because her son has problems closing his teeth, has an overbite, has lots of crooked teeth, and has problems speaking. (Exhibit 5: Administrative Hearing Request form and Hearing summary)
9. On [REDACTED], 2020, Dr. Geoffrey Drawbridge, D.D.S., Dental Consultant for CTDHP, reviewed [REDACTED] model's and panoramic radiographs and arrived at a score of 11 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no evidence of severe irregular placement or irregular growth or development of the jaw bones. There was also no evidence presented of the presence of emotional issues directly related to his

dental condition. Dr. Drawbridge commented "Approval of interceptive treatment as noted." Dr. Drawbridge also included a letter to ██████ explaining that he does not qualify for comprehensive orthodontic treatment due to the presence of multiple deciduous molars and lack of dental maturity, but that approval of Interceptive Orthodontic Treatment should be considered due to the presence of gingival stripping #25. (Exhibit 7: Preliminary Handicapping Malocclusion Assessment record with letter and Hearing summary)

10. On ██████ 2020, CTDHP notified the Appellant that an appeal review was conducted and that ██████ did not meet the criteria for orthodontic treatment. (Exhibit 8: Determination letter dated ██████ and Hearing summary)
11. ██████ has not received treatment by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to his teeth or mouth. (Appellant's testimony)
12. At the time of the administrative hearing, Dr. Fazzino, CTDHP's Dental Consultant, stated that the treating orthodontist should resubmit a request for service with the correct coding for Interceptive Orthodontic Treatment, as this will address the lack of full dental maturity in ██████ mouth and address issues that are age appropriate for him. (Dental consultant's testimony)
13. The issuance of this decision is timely under the 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 ██████ 2020. Therefore, this decision is due not later than ██████ 2021.

### **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) provide that "orthodontic services for 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 that
  - (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. Section 17b-282e of the Supplement to the Connecticut General Statutes 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 structure; 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.

5. Connecticut Agencies Regulations §17-134d-35(f)(D) 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."

**CTDHP correctly determined that the study models submitted for prior authorization do not show severe occlusal deviations and the treating orthodontist's total point score of 16 on the preliminary assessment is less than the 26 points required by law.**

**In the Appellant's case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that [REDACTED] receive orthodontic treatment to significantly ameliorate his mental, emotional, and or behavior problems, disturbances or dysfunctions.**

**CTDHP was correct to find that [REDACTED] malocclusion did not meet the criteria for severity, or 26 points, as established in Section 17b-282e of the Supplement to the Connecticut General Statute.**

**On [REDACTED] 2020, CTDHP was correct to deny prior authorization because [REDACTED] does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.**

### **DISCUSSION**

State regulations provide that when a person is correctly scored with at least 26 points on a Preliminary Handicapping Malocclusion Assessment Record, a test measuring severity of malocclusion and dentofacial deformity, the Medicaid program will authorize and pay for orthodontic treatment. The treating orthodontist scored the malocclusion of [REDACTED] teeth to equal 16 points. Two dentists in blind reviews independently assessed his models and scored the malocclusion to equal 13 points and 11 points each. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

The Appellant did not provide any other evidence of a substantial nature to indicate the presence of other severe deviations affecting the mouth and underlying structures. Testimony and evidence in the hearing record from Dr. Fazzino and Dr. Drawbridge indicated that, if the treating Orthodontist were to resubmit the request for service as a request for Interceptive Orthodontic Treatment, this service may likely be approved, as it is more appropriate for the child's age and dental maturity. Also, a licensed psychiatrist or licensed psychologist has not recommended that he receive orthodontic treatment to significantly ameliorate his mental, emotional, and or behavior problems, disturbances or dysfunctions.

The undersigned hearing officer finds that [REDACTED] malocclusion does not meet the criteria for severity, or 26 points, as established in state regulations to allow the Medicaid program to pay for orthodontic services.

### **DECISION**

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

  
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Roberta Gould  
Hearing Officer

Pc: Magdalena Carter, 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.