

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

██████████ 2021  
Signature Confirmation

██████████  
██████████  
Request #163581

NOTICE OF DECISION  
PARTY

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

PROCEDURAL BACKGROUND

██████████, 2020, the Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of orthodontia services for her minor child, ██████████ (the “child”). The notice indicated that the severity of the child’s malocclusion did not meet the requirements in state law to approve the proposed treatment.

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

██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

██████████ 2021, 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 hearing was held telephonically with no objection from any of the parties. The following individuals were present at the hearing:

██████████ Ramos, Appellant  
Maria Cuevas, Interpreter, Interpreters and Translations, Inc.  
Katie Nadeau, CTDHP’s Representative  
Gregory Johnson, CTDHP’s Dental Consultant, by phone  
Veronica King, Hearing Officer

The Hearing record remained open till [REDACTED], 2021, at the request of the Appellant for the submission of additional information.

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for the child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

### **FINDINGS OF FACT**

1. The Appellant is the child's mother. (Hearing Record)
2. The child is [REDACTED] years old (D.O.B. [REDACTED]) and a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Exhibit 1: Prior Authorization Claim and Hearing Record)
3. CTDHP also known as BeneCare Dental Plans is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. "[REDACTED]" is the child's treating orthodontist (the "treating orthodontist"). (Exhibit 1 and Hearing Record)
5. [REDACTED], 2020, the treating orthodontist submitted to BeneCare, a Prior Authorization claim and a Preliminary Handicapping Malocclusion Assessment Record with a score of 35 points, dental models and panorex films of the child's mouth. The doctor commented; "Please review PA, Thank you." (Exhibit 1 and Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/20)
6. The treating orthodontist's malocclusion assessment does not indicate that the child has a presence of other severe deviation affecting the mouth and underlying structure. (Exhibit 2)
7. [REDACTED] [REDACTED] [REDACTED], 2020, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed the child's models and panoramic radiographs and arrived at a score of 21 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky also found no presence of severe deviations affecting the mouth and underlying structures. (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/20)

8. ■■■■■■■■, 2020, CTDHP issued a notice denying the treating orthodontist's request for prior authorization for orthodontic services because the child's score was less than 26 points on the Malocclusion Assessment Record, her teeth were not crooked enough to qualify for braces and the teeth currently poses no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action for Denied Services or Goods, ■■■■/20)
9. ■■■■■■■■ 2020, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request and supporting letter from Ms. ■■■■■■■■, LCSW)
10. ■■■■■■■■, 2020, Dr. Vincent Fazzino, DMD, BeneCare's dental consultant, independently reviewed the child's models and panoramic radiographs and arrived at a score of 21 points on a completed Preliminary Handicapping Malocclusion Assessment Record. The doctor also found no presence of severe deviations affecting the mouth and underlying structures. Dr. Fazzino reviewed the supporting letter from Ms. ■■■■■■■■, LCSW. The doctor commented; "The letter submitted from ■■■■■■■■ ■■■■■■■■ LCSW has been received and reviewed. This does not alter the assessment record." (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, ■■■■/20 and Dr. Fazzino's letter dated ■■■■/20)
11. ■■■■■■■■ 2020, CTDHP notified the Appellant that the request for orthodontic services was denied because the child's second score of 21 points was less than the 26 points needed for coverage, lack of evidence of the presence of severe deviations affecting the mouth or underlying structures, and 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: Letter Regarding Orthodontic Services, ■■■■/20)
12. The child does not have problems chewing or swallowing food. (Appellant's Testimony)
13. The child does not experience pain or infection of the mouth. (Appellant's Testimony)
14. The child attends therapy to emotional support however she is not being treated by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to her malocclusion at this time. (Appellant's Testimony)
15. The hearing record was left open for the Appellant to submit additional evidence. No additional documents were received. (Hearing Record and Exhibit 9: Email correspondence dated ■■■■/21)

## **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. State regulations 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. [Conn. Agencies Regs. §17-134d-35(a)]
3. State regulation 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. [Conn. Gen. Stat. § 17b-259b]
4. 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)]
5. Sec. 17b-282e of 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 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. State statute requires 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. [Conn. Gen. Stats. § 17b-259b(c)]

**CTDHP correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.**

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

**CTDHP correctly determined that the child has not been treated by a licensed psychologist or licensed psychiatrist who has accordingly limited his or her practice to child psychiatry or child psychology.**

**CTDHP correctly determined that the child's malocclusion did not meet the criteria for medical necessity as established in state regulations at this time.**

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

## **DISCUSSION**

State regulations provide that when a child 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.

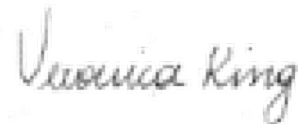
The treating orthodontist scored the malocclusion of the child's teeth to equal 35 points, two other dentists in blind reviews independently assessed the child's models and scored the malocclusion to equal 21 and 21 points, respectively. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity.

There is some consensus across all three assessments that the child has the presence of overjet, open spacing and some rotation with her teeth and has been evaluated and scored accordingly. The issue is the severity of the malocclusion. Unfortunately, based on the evidence provided by the treating orthodontist, the child's malocclusion does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations at this time. The child attends

The Appellant's request for prior authorization of orthodontia treatment remains denied.

### **DECISION**

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



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Veronica King  
Hearing Officer

Cc: 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, 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.