

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

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

Client ID ██████████  
Case ID ██████████  
Request # 170117

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2020, Connecticut Dental Health Partnership/Benecare Dental Plans (“Benecare”) sent ██████████-██████████ (the “child”) a notice of action denying a request for prior authorization of interceptive orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On ██████████ 2020, ██████████ (the “Appellant”) on behalf of the child, requested an administrative hearing to contest Benecare’s denial of prior authorization of interceptive orthodontia treatment for the child.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, the Appellant requested a ten-week continuance. OLCRAH approved a nine-week continuance issuing a notice on ██████████ 2021 scheduling the administrative hearing for ██████████ 2021.

On ██████████ 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 following individuals called in for the hearing:

██████████ Appellant  
 Cindy Ramos, Benecare Representative  
 Dr. Benson Monastersky, DMD, Benecare Dental Consultant  
 Lisa Nyren, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether Benecare's ██████████ 2020 denial through the Medicaid program of prior authorization for the child's interceptive 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 father. (Hearing Record)
2. The child is ████ (███ years old born on ██████████) (Exhibit 1: Dental Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record and Exhibit 5: Hearing Request)
3. The child is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
4. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
5. ██████████ (the "treating orthodontist") is the child's treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
6. On ██████████ 2020, the treating orthodontist requested prior authorization to complete interceptive orthodontic treatment for the child. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
7. On ██████████ 2020, Benecare received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record ("assessment record") with a score listed as 12 points, dental models, x-rays, photographs, and a notice of diagnostic findings and treatment plan. Under the section titled Criteria for Approval of Interceptive Orthodontic Treatment, the treating orthodontist checked yes for the presence of anterior impacted tooth referencing the child's upper canines. Under this same section, the treating

orthodontist did not check a response to deep impinging overbite but indicated no for the five remaining criterion; functional deviation, class III malocclusion, gingival recession, severe overjet, and open bite. It is noted the treating orthodontist did not score an overbite on the assessment record. Under the Other Deviations section on the assessment record, the treating orthodontist checked yes commenting on the assessment record, "Patients canine in upper arch are positioned directly above the roots of the upper lateral incisors. Left untreated, might result in root resorption. Patient presented with full cusp Class II molar relationship, severely rotated upper left lateral incisor and impacted canines in close proximity to lateral incisor root." (Exhibit 2: Preliminary Malocclusion Assessment Record)

8. Under the Salzman Scale, teeth numbers 6, 11, 22, and 27, referred to as canines, are not considered anterior teeth. Under the Salzman Scale, teeth numbers 7, 8, 9, 10, 23, 24, 25, and 26, referred to as incisors, are considered anterior teeth. (Dental Consultant's Testimony)
9. To qualify for payment of interceptive orthodontic treatment under Medicaid, the child must meet the Criteria for Approval of Interceptive Orthodontic Treatment as listed on the assessment record which follows the Salzman Scale Index that measures the severity of a malocclusion. (Dental Consultant's Testimony, Exhibit 2: Preliminary Malocclusion Assessment Record, Exhibit 3: Preliminary Malocclusion Assessment Record, and Exhibit 6: Preliminary Malocclusion Assessment Record)
10. On [REDACTED] 2020, Dr. Robert Gange, DDS, orthodontic dental consultant on behalf of Benecare, independently reviewed the child's dental models, x-rays, photographs, and the notice of diagnostic findings and treatment plan. On a Preliminary Handicapping Malocclusion Assessment Record form Dr. Gange commented, "Please re-evaluate upon dental maturity. Does not meet phase one treatment guidelines." Dr. Gange found no evidence of a deep impinging overbite, no evidence of a functional deviation, no evidence of a class III malocclusion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet of more than 9 millimeters, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange did not find evidence of severe irregular placement of her teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Gange found no evidence presented stating the presence of emotional issues directly related to her dental situation and determined that interceptive orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)
11. On [REDACTED] 2020, Benecare denied the treating orthodontist's request for prior authorization of interceptive orthodontic services for the reason that

the documents submitted by your dentist provided no evidence that interceptive orthodontic treatment is medically necessary under the conditions set by the Department. Specifically, interceptive orthodontic treatment is covered only if medically necessary and the documents submitted are not complete enough to make a determination of medical necessity. (Exhibit 4: Notice of Action for Denied Services or Goods)

12. On [REDACTED] [REDACTED] 2020, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
13. On [REDACTED] [REDACTED] 2021, Dr. Geoffrey Drawbridge, DDS, Benecare's orthodontic dental consultant, independently reviewed the child's models, x-rays, photographs, and the notice of diagnostic findings and treatment plan and completed the Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge found no evidence of a deep impinging overbite, no evidence of a functional deviation, no evidence of a class III malocclusion, no evidence of gingival recession from an anterior cross bite, no evidence of severe overjet of more than 9 millimeters, no evidence of an open bite of 5 millimeters or more and no evidence of impacted teeth as listed on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge commented, "Provider assessment not substantiated by diagnostic information submitted, i.e. Proximity of #6, #11 overlap with #7, #10 roots. Does not meet interceptive treatment guidelines. Resubmit with dental maturity. No impactions noted." Dr. Drawbridge did not find evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Drawbridge found no evidence presented stating the presence of emotional issues directly related to her dental situation and determined the request for limited orthodontic treatment was not medically necessary. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
14. On [REDACTED] [REDACTED] 2021, Benecare notified the Appellant that the request for interceptive orthodontic treatment was denied because no evidence was found to support 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: Determination Letter)
15. In the first grade, the child was diagnosed with unspecified adjustment disorder after being bullied and received mental health treatment for a year. The child is in the fourth grade now and has received no further treatment. (Appellant's Testimony)
16. A qualified psychiatrist or psychologist is not currently treating the child for mental, emotional, or behavioral problems, disturbances or dysfunctions as defined by the most current edition of the Diagnostic and Statistical Manual of

Mental Disorders published by the American Psychiatric Association that affects the child's daily functioning. (Appellant's Testimony)

17. The Appellant seeks interceptive orthodontia treatment for the child to address irregular growth of her teeth as recommended by the child's treating dentist and treating orthodontist and to take preventive measures to avert future negative social and emotional responses from the child caused by her peers. The child chews her food on one side of the mouth due to gum exposure. (Appellant's Testimony)
18. 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] [REDACTED] 2020. However, the hearing, which was originally scheduled for [REDACTED] [REDACTED] 2021, was rescheduled for [REDACTED] [REDACTED] 2021, at the request of the Appellant, which caused a [REDACTED]-day delay. Because this [REDACTED]-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] [REDACTED] 2021, and therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2(8) of the Connecticut General Statutes ("Conn. Gen. Stat.") states that the Department of Social Services is the designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17-134d-35(a) of the Regulations of Connecticut State Agencies ("Regs., Conn. State Agencies") provides as follows: "Orthodontic services will be paid for when (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations."
3. State statute provides as follows:

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(a)

4. "Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request 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)
5. State statute provides as follows:

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. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner publishes notice of intent to adopt regulations on the eRegulations System not later than twenty days after the date of implementation.

Conn. Gen. Stat. § 17b-282e

6. "When an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for preliminary examination of the degree of malocclusion." Regs., Conn. Agency Regs. § 17-134d-35(e)

7. "Preliminary Handicapping Malocclusion Assessment Record means the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment." Regs., Conn. State Agencies § 17-134d-35(b)(3)

8. State regulation provides as follows:

Prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed Preliminary Handicapping Malocclusion Assessment Record; (C) Preliminary assessment study models of the patient's dentition; and (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department, he may proceed with the diagnostic assessment.

Regs., Conn. State Agencies §17-134d-35(f)(1)

9. State statute provides as follows:

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)

10. The study models and x-rays submitted by the treating orthodontist do not clearly support the presence of deviations affecting the mouth and the underlying structures as per state regulations for the authorization of limited orthodontia treatment.
11. Benecare correctly determined that the child's malocclusion did not meet the criteria for approval of interceptive orthodontic treatment.
12. Benecare was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state statute.

13. Benecare was correct to deny prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services, in accordance with state statutes and regulations.
14. On [REDACTED] [REDACTED] 2020, Benecare correctly issued the Appellant a notice of action denying the Appellant's request for interceptive orthodontia treatment for the child.

**DECISION**

The Appellant's appeal is denied.

  
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Lisa A. Nyren  
Hearing Officer

CC: Rita LaRosa, CTDHP  
Magdalena Carter, 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 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.