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

[redacted] **2021**
Signature Confirmation

CLIENT No # [redacted]
Request # 173839

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2021, Connecticut Dental Health Partnership ("CTDHP") sent [redacted] (the "Appellant") a Notice of Action ("NOA") denying a request for orthodontic treatment for [redacted], her minor child, indicating that severity of child's malocclusion did not meet the medical necessity requirement.

On [redacted] 2021, the Appellant requested an administrative hearing to contest the decision to deny prior authorization of orthodontia.

On [redacted], 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2021.

On [redacted] 2021, in accordance with sections 17b-60, 17-61 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:

[redacted], Appellant
Cyndi Ramos, CTDHP Grievance Mediation Specialist
Dr. Stanley Wolfe, CTDHP Dental Consultant
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the CTDHP's decision to deny the prior authorization through the Medicaid program for the child 's orthodontic services is correct because such services are not medically necessary.

FINDINGS OF FACT

1. The Appellant is the mother of [redacted], the minor child. (hearing record)

2. The child is [redacted] years old; date of birth is [redacted] She is a participant in the Medicaid program as administered by the Department of Social Services. (Appellants testimony)

3. Connecticut Dental Health Partnership ("CTDHP") is the dental subcontractor for the Ct Department of Social Services.

4. [redacted]. is the treating orthodontist. (Exhibit 1A, Prior Authorization form)

5. On [redacted] 2021, CTDHP received a prior authorization request for braces for the child. The treating orthodontist scored 24 points on the Malocclusion Severity Assessment and commented "Client has no missing teeth." (Exhibit #2 A, Preliminary Handicapping Malocclusion Severity Assessment form)

6. The Malocclusion Severity Assessment record is a test measuring the severity of malocclusion.

7. The treating orthodontist scored the Malocclusion in the following way: In section E. Intra-Arch Deviation, the treating orthodontist scored teeth #'s 7,8,9,10, 23,24,25,26,22 and 27 as crowded. In section F. (1), Inter-Arch Deviation, Anterior Segment he scored teeth #'s 23,24 and 25 as overbite. In section F. (2) Inter-Arch Deviation Posterior Segment, the right and left canine and the 1st Premolar in Distal was scored while the right 1st Molar was scored in crossbite. (Exhibit #2 A, Preliminary Handicapping Malocclusion Severity Assessment form)

8. On [redacted] 2021, Dr. Benson Monastersky (orthodontic dental consultant with CTDHP) evaluated the x-rays and models of the child's teeth and arrived at a score of 21 points on the malocclusion assessment record. (Exhibit #3A, Preliminary Handicapping Malocclusion Assessment record)

9. Dr. Monastersky scored teeth # 7,8,9,10, 6, 23, 24, 25, 26, 22, 27 as crowded; teeth #'s 7 and 10 as overjet in the Malocclusion assessment record. (Exhibit 3A)

10. On [redacted] 2021, Dr. Monastersky found no evidence of irregular growth or development of the jaw bones. Noted there are no evidence of severe deviations affecting the mouth and underlying structures nor evidence of emotional distress related to the child's teeth. (Exhibit #3A, Preliminary Handicapping Malocclusion Assessment record and Exhibit 4A, Notice of Action letter)

11. On [redacted] 2021, CTDHP issued a Notice of Action to the Appellant denying orthodontic treatment as not medically necessary since the child's malocclusion score of 21points was less than the 26 points needed to be covered. The child's orthodontic request for treatment was also denied as there was no presence found of severe deviations affecting the mouth or underlying structures, which left untreated would cause irreversible damage to the teeth or underlying structures. There was no evidence of a diagnostic evaluation by a licensed psychiatrist or psychologist related to the condition of the child's teeth. (Exhibit #4A, Notice of Action)

12. On [redacted] 2021, the Appellant requested an administrative hearing. (Exhibit 5A, Hearing request)

13. On [redacted] 2021, CTDHP dental consultant, Dr. Vincent Fazzino conducted an appeal review using the models and x-rays of the child's teeth. The Malocclusion Severity Assessment scored 22 points. Dr. Fazzino scored 7,8,9,10,6,23, 24,25,26,22 and 27 as crowded; teeth #'s 7 and 10 as overjet and tooth # 23 as overbite; and scored the right canine as overbite. (Exhibit 6A, Preliminary Handicapping Malocclusion Assessment record)

14. Dr. Fazzino did not find evidence of irregular growth or development of the jaw bones. There was no evidence of emotional issues directly related to the child's dental issues. Dr. Fazzino's decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut's requirement of being medically necessary. (Exhibit #6A)

15. On [redacted] 2021, CTDHP issued a determination notice advising the Appellant that the appeal review was conducted and has recommended that CT Department of Social Services ("CTDSS') uphold the previously denied request for braces. (Exhibit #7A, Determination Letter)

16. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to "not later than 120

days " after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated April 13, 2020. The Appellant requested an administrative hearing on [redacted] 2021; therefore, this decision is due no later than [redacted] 2021 and is timely.

CONCLUSIONS OF LAW

1. Section 17b-262 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the medical assistance program.

2. Section 17b-259b of the Ct General Statutes ("CGS") 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.

   (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. Connecticut Agencies Regulations § 17-134d-35 (f) (1) provide that 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 patients 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/ she may proceed with the diagnostic assessment.

4. Connecticut Agencies Regulations § 17-134d-35 (b) (3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.

5. Sec. 17b-282 (e) CGS. Orthodontic services for Medicaid recipients under twenty-one years of age. 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. Connecticut Agencies Regulations §17-134d-35 (e) (2) provides in relevant part that the 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 if 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 a licensed psychologist who has accordingly limited his or practice to child psychiatry

or child psychology. The evaluation must clearly and substantially document how the dento-facial deformity is related to the child's mental, emotional and / or behavior problems and that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems.

7. **The hearing record reflects that the child's study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26-point score on the preliminary Malocclusion assessment report.**

8. **The hearing record reflects that the child did not have severe deviations affecting the mouth and underlying structures in accordance with the regulations.**

9. **The hearing record shows that the child has not been evaluated or diagnosed by a child psychiatrist or child psychologists with any severe emotional, mental and / or behavioral issues related to the condition of her teeth which would be significantly helped with orthodontic treatment.**

10. **CTDHP was correct to deny the prior authorization request for orthodontic services as the Malocclusion did not meet the 26 points on the Preliminary Handicapping Malocclusion Assessment Record as required.**

11. **Because there was no evidence presented indicating the child had severe deviations affecting the mouth and underlying structures, CTDHP was correct to deny the prior authorization request for orthodontic services as the criteria of severity was not met.**

12. **CTDHP was correct to deny prior authorization request for orthodontic services as there was no evidence that the child suffered from emotional issues related to the condition of her teeth which would be significantly helped with braces.**

13. **CTDHP correctly determined the request for braces for the child was not medically necessary**.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod
Hearing Officer

CC: Magdalena Carter, CTDHP PO Box 486 Farmington, Ct 06032
Rita LaRosa, CTDHP PO Box 486 Farmington, Ct. 06032

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, 165 Capitol Avenue, Hartford, CT 06105 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.