

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

[REDACTED] 2021
Signature Confirmation

Client ID [REDACTED]
Case ID [REDACTED]
Request # 173960

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] [REDACTED] 2021, Connecticut Dental Health Partnership ("CTDHP") sent [REDACTED] [REDACTED] (the "Appellant") a notice of action denying a request for prior authorization of the replacement of existing upper partial dentures, indicating that the replacement is not medically necessary under state law.

On [REDACTED] [REDACTED] 2021, the Appellant requested an administrative hearing to contest CTDHP's denial of the prior authorization request for the replacement of existing dentures.

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

On [REDACTED] [REDACTED] 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:

[REDACTED] [REDACTED] Appellant
Rosario Monteza, CTDHP Representative
Dr. Gregory Johnson, CTDHP's Dental Consultant
Lisa Nyren, Hearing Officer

The record remained open for the submission of additional evidence. On [REDACTED] 2021, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's denial of prior authorization through the Medicaid program for the Appellant's replacement of existing upper partial dentures was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program, as administered by the Department of Social Services ("the Department"). (Hearing Record)
2. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of partial or full dentures. (Hearing Record)
3. On [REDACTED] 2015, Medicaid paid for an upper partial denture for the Appellant which he received from [REDACTED] (the "treating dentist"), his treating dental group. The Appellant signed an acceptance form upon receipt of a new denture acknowledging that the denture is acceptable and that he understands the department's replacement policy. (Exhibit 5: Claims Information and Exhibit 9: Treating Dentist Supporting Documents)
4. The Appellant lost the 2015 upper partial dentures which he received. (Appellant's Testimony)
5. On [REDACTED] 2021, CTDHP received a prior authorization request from the Appellant's treating dentist requesting approval of Medicaid coverage for an upper partial denture and lower partial denture. The treating dentist commented, "NH-Please see attached FMX for approval of APUD/APLD." (Exhibit 1: Dental Claim Form and Exhibit 2: FMX X-rays)
6. On [REDACTED] 2021, CTDHP denied the treating dentist's request for prior authorization for the replacement of existing upper partial denture and issued a notice of action. CTDHP determined that the replacement of existing dentures is not medically necessary under the factors set forth in State Statute and Departmental Medical Service Policies. Specifically, Medicaid has paid for full or partial dentures within the last seven years and there was no additional medical evidence provided by your primary care or attending physician indicating that being without the dentures worsens an existing medical condition and being without the denture(s) creates a condition where the patient cannot complete activities of daily living if it worsens an existing medical condition. (Exhibit 3: Notice of Action)

7. On [REDACTED] [REDACTED] 2021 the Appellant requested an administrative hearing to contest CTDHP's denial of the prior authorization request for the replacement of existing partial dentures. (Exhibit 3: Administrative Hearing Request)
8. On [REDACTED] [REDACTED] 2021, CTDHP completed an administrative review. CTDHP determined that the patient had received upper partial dentures paid for by Medicaid within the seven (7) year time limit as set by state law. CTDHP determined the Appellant had not presented any evidence by a physician stating that partial dentures are expected to use for mastication on a daily basis. CTDHP determined the Appellant presented no evidence by a physician that dentures are needed for medical reasons or that dentures will improve a specific medical condition. CTDHP determined the replacement of the upper partial denture does not meet the medically necessary criteria set forth by the Department. (Exhibit 5: Claims History Record, Exhibit 6: Dental Consultant Grievance Review Record, Exhibit 7: Notice of Action)
9. On [REDACTED] [REDACTED] 2021, CTDHP denied the request for the replacement of existing upper partial denture and notified the Appellant. The letter states, "Coverage for the replacement of existing partial or full dentures is not paid by the plans more than once in a 7 year period from the date for which benefits for this service were previously paid, unless deemed medically necessary and medically appropriate by the Department. Evidence was provided that [REDACTED] [REDACTED] 2015 was the initial placement date for an upper partial denture. No evidence of medical necessity was provided from the attending physician." (Exhibit 7: Notice of Action)
10. The Appellant is [REDACTED] [REDACTED] ([REDACTED] years old. (Hearing Record)
11. The Appellant is missing four upper teeth and six lower teeth. (Appellant's Testimony)
12. 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] 2021. However, the close of the hearing record, which had been anticipated to close on [REDACTED] [REDACTED] 2021, did not close for the admission of evidence until [REDACTED] [REDACTED] 2021 at the Appellant's request. Because this [REDACTED]-day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [REDACTED] [REDACTED] 2021, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes states that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Regulations of the Connecticut State Agencies ("Regs., Conn. State Agencies") § 17b-262-862 provides as follows:

Sections 17b-262-862 to 17b-262-866, inclusive, of the Regulations of Connecticut State Agencies set forth limitations on the extent of non-emergency dental services provided to adults twenty-one years of age and older who receive services under the Connecticut Medicaid program. Such limitations include coverage limits, prior authorization requirements and services that are not covered under Medicaid. These regulations supplement but do not supplant Department Medical Services Policies for dental services, including but not limited to, provider participation, eligibility, coverage limitations, billing procedures and payment, to the extent that such policies have the force of law pursuant to section 17b-10 of the Connecticut General Statutes.

3. Regulation provides as follows:

“Dentures” or “denture prosthesis” means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

Regs., Conn. State Agencies § 17b-262-863(6)

Chapter 7, Section 184B(VI) of the Medical Services Policy 7.1 (“Medical Services Policy”) provides as follows:

Dentures means artificial structures made by or under the direction of a dentist to replace a full or partial set of teeth.

4. 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)

"Medical necessity" or medically necessary" has the same meaning as provided in section 17b-259b of the Connecticut General Statutes." Regs., Conn. State Agencies § 17b-262-863(16)

Medical Services Policy provides in pertinent part:

Need for Service. The Department will pay for any dental services which are deemed by the Department to be medically necessary and that:

- a. the services are within the scope of the dentist's profession, and
- b. the services are made part of the recipient's medical record.

7 Medical Services Policy 7.1 § 184(F)(I)

5. State statute provides as follows:

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)

Medical Services Policy provides as follows:

For the purposes of this section, dental services are diagnostic, preventive, or restorative procedures, performed by a licensed dentist in a private or group practice or in a clinic; a dental hygienist, trained dental assistant, or other dental professionals employed by the dentist, group practice or clinic, providing such services are performed within the scope of their profession in accordance with State law. These services relate to:

- I. The teeth and other structures of the oral cavity; and
- II. Disease, injury, or impairment of general health only as it relates to the oral health of the recipient.

7 Medical Services Policy 7.1 § 184

6. State statute provides as follows:

All nonemergency dental services provided under the Department of Social Services' dental programs, as described in section 17b-282b, shall be subject to prior authorization. Nonemergency services that are exempt from the prior authorization process shall include diagnostic, prevention, basic restoration procedures and nonsurgical extractions that are consistent with standard and reasonable dental practices. Dental benefit limitations shall apply to each client regardless of the number of providers serving the client. The commissioner may recoup payments for services that are determined not to be for an emergency condition or otherwise in excess of what is medically necessary. The commissioner shall periodically, but not less than quarterly, review payments for emergency dental services and basic restoration procedures for appropriateness of payment. For the purposes of this section, "emergency condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate dental attention to result in placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, cause serious impairment to body functions or cause serious dysfunction of any body organ or part.

Conn. Gen. Stat. § 17b-282c(a)

"Prior authorization" means approval from the department for the provision of a service or the delivery of goods before the provider actually provides the service or delivers the goods." Regs., Conn. State Agencies § 17b-262-863(24)

"The following treatment and/or services require prior authorization by the Department. Dentures. Full or partial dentures." 7 Medical Services Policy 7.1 § 184(F)(II)(c)(1)

7. State regulation provides as follows:

The limitations on coverage of certain non-emergency dental services in subsection (a) of this section apply to healthy adults. The limitations on non-emergency dental services in subsection (b) of this section apply to all

adults twenty-one years of age and older and are subject to the prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.

Regs., Conn. State Agencies § 17b-262-864

State regulation provides as follows:

Coverage of non-emergency dental services provided to all adults twenty-one years of age and older shall be limited as follows: Prosthodontics:

- A. Coverage of complete and removable partial dentures for functional purposes when there are fewer than 8 posterior teeth in occlusion or missing anterior teeth is subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies.
- B. Coverage of removable partial dentures when there are more than 8 posterior teeth in occlusion and no missing anterior teeth is allowed on a case-by-case basis conditioned upon a demonstration of medical necessity and subject to prior authorization requirements in section 17b-262-866 of the Regulations of Connecticut State Agencies;
- C. One complete and partial denture prosthesis construction is covered per seven-year period. Clients shall sign an acceptance form upon receipt of a new denture prosthesis acknowledging that the prosthesis is acceptable and that he or she understands the department's replacement policy as described in subsection (d) of this section; and
- D. Replacement of denture prosthesis more than once in a seven-year period shall be limited to replacement for reasons of medical necessity. Replacement shall not be made for cosmetic reasons. Replacement shall not be made if the prosthesis was lost, stolen or destroyed as a result of misuse, abuse or negligence.

Regs., Conn. State Agencies § 17b-262-864(b)(2)]

- 8. CTDHP correctly determined that the Appellant received an upper partial denture which Medicaid paid for within the last seven years because Medicaid issued payment for upper partial dentures received by the Appellant on [REDACTED] 2015 and the Appellant signed an acceptance form upon receipt of the new denture on [REDACTED] 2015 acknowledging that the denture is acceptable and that he understands the 7-year replacement policy. [REDACTED] 2015 falls within 7-years from the date of the prior authorization request made on [REDACTED] 2021 by the treating dentist.
- 9. CTDHP correctly determined the Appellant does not have a medical condition which the replacement of dentures would significantly ameliorate.

10. CTDHP was correct to deny the prior authorization request for the replacement of an upper partial denture because the Appellant received an upper partial denture within the 7-year time limit and does not meet the medical necessity criteria for the replacement of such denture in accordance with state statutes, regulations, and medical services policy.

11. 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. Stat. § 17b-259b(c)

12. On [REDACTED] 2021, CTDHP correctly issued the Appellant a notice of action denying the prior authorization request for the replacement of his upper partial denture.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Hearing Officer

PC: 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.