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 # 174894

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2021, Connecticut Dental Health Partnership/CTDHP Dental Plans ("CTDHP") sent [redacted] ("child") a notice of action denying a request for prior authorization of orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On [redacted] 2021, [redacted] ("Appellant") requested an administrative hearing to contest CTDHP's denial of prior authorization of orthodontia for the child.

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, 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] Appellant
Cindy Ramos, CTDHP Representative
Dr. Joseph D'Ambrosio, CTDHP Dental Consultant
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's [redacted] 2021 denial through the Medicaid program of prior authorization for the child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [redacted] ("Appellant") is the mother of [redacted] ("the child"). (Hearing Record)

2. The child is [redacted] ([redacted] years old born on [redacted] (Exhibit 1: Prior Authorization 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. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)

5. [redacted], (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 [redacted], 2021, CTDHP received a prior authorization request from the treating orthodontist to complete orthodontic services for the child. (Hearing Summary and Exhibit 1: Prior Authorization Request)

7. On [redacted] 2021, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 26 points, models and x-rays of the child. The treating orthodontist did not find the presence of other severe deviations affecting the mouth or underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures. (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)

8. The Salzman Scale is the standardized method used by CTDHP to complete the Preliminary Handicapping Malocclusion Assessment Record scoring sheet. (Dental Consultant's Testimony)

9. Medicaid pays for orthodontia treatment when a patient scores twenty-six (26) points or more on a correctly scored Preliminary Handicapping Malocclusion Assessment Record under the Salzman Scale. (Dental Consultant's Testimony)

10. On [redacted] 2021, Dr. Vincent Fazzino, DMD, CTDHP's orthodontic dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 24 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino 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. Fazzino found no evidence presented stating the presence of emotional issues directly related to the child's dental situation and determined that orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)

11. On [redacted] 2021, CTDHP notified the child that the request for orthodontic services was denied. CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that orthodontia treatment is not medically necessary under the factors set forth in state statutes and state regulations. Specifically, the scoring of the child's mouth was less than the 26 points needed for coverage; there was no additional evidence of the presence of severe deviations affecting the mouth or underlying structures, which, if left untreated, would cause irreversible damage. In addition, there was no evidence that a diagnostic evaluation has been done by a licensed child psychologist or a licensed child psychiatrist indicating the child has the presence of a severe mental, emotional, or behavior problem as defined in the current edition of the Diagnostic Statistical Manual which orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (Exhibit 4: Notice of Action for Denied Services or Goods)

12. On [redacted] 2021, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)

13. On [redacted] 2021, Dr. Geoffrey Drawbridge, DDS, CTDHP dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 22 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge commented, "Re-evaluate with premolar eruptions re: crossbite and mesio-occlusion potentials." 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 the child's dental situation and determined the treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)

14. On [redacted] 2021, CTDHP notified the Appellant that the request for orthodontic services was denied. CTDHP lists the reasons for denial as: the child's score of 22 points was less than the 26 points needed for coverage,

the 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 directly related to the condition of the child's teeth. (Exhibit 7: Determination Letter)

15. A qualified psychiatrist or psychologist is not 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)

16. The child was diagnosed with anxiety and received treatment in the past, but treatment ended at the start of the pandemic. (Appellant's Testimony)

17. The child's crowded teeth make it difficult for her to floss properly resulting in numerous cavities. (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] 2021. Therefore, this decision is due no later than [redacted] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(6) 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. State statute 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. 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. Stats. § 17b-282e

3. Section § 17-134d-35(a) of the Regulations of Connecticut State Agencies (“Regs. Conn. State Agencies”) provides that “orthodontic services will be paid for when (1) provided by a qualified dentist and (2) deemed medically necessary as described in these regulations.”

4. State statute provides that:

   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)

5. “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)

6. “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)

7. State regulation provides 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 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)

8. 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)

9. The study models and x-rays submitted by the treating orthodontist did not clearly support the total point score of 26 as required by state statute for the authorization of orthodontia treatment.

10. CTDHP correctly determined that the child’s malocclusion did not meet the criteria for severity, or 26 points as established in state statute and that there was no presence of severe deviations affecting the mouth and underlying structures as evidenced by the dental consultant’s independent reviews of the child’s models and x-rays and their scores on the Preliminary Handicapping Malocclusion Assessment Records of 24 points and 22 points respectively.

11. CTDHP correctly determined the child does not have any mental, emotional, or behavioral problems, disturbances, or dysfunctions of a substantial nature directly related to her teeth or jaw structure in which orthodontia treatment would significantly ameliorate the problems, disturbances or dysfunctions.

12. CTDHP was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state statute.

13. CTDHP was correct to deny the prior authorization request for orthodontia services because the child scored less than twenty-six points under the Salzmann Handicapping Malocclusion Index and the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and state regulations.

14. On [redacted] 2021, CTDHP correctly issued the child a notice of action denying the Appellant's request for orthodontia treatment for the child.

15. On [redacted] 2021, CTDHP correctly issued the Appellant a notice of action informing the Appellant that after the appeal review of the child's dental records, the request for orthodontia treatment remains denied.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Fair 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 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.