

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 # 176614

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2021, CT Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (the “Department”) sent ██████████ (“the child”), a Notice of Action (“NOA”) denying a request for prior authorization for interceptive orthodontic treatment indicating it was not medically necessary.

On ██████████ 2021, ██████████ (the “Appellant”), requested an administrative hearing to contest the Department’s denial of the prior authorization request for interceptive orthodontia.

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

On ██████████ 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 participated in the hearing:

████████████████████ Appellant  
Rozario Monteza, Grievance and Appeals Representative, CTDHP  
Dr. Joseph D’Ambrosio, Dental Consultant, CTDHP  
Carla Hardy, Hearing Officer

Due to the COVID-19 Pandemic, the hearing was held as a telephonic hearing.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CTDHP's denial of a prior authorization request for the child's interceptive orthodontia as not medically necessary was correct and in accordance with state statutes and regulations.

### **FINDINGS OF FACT**

1. The Appellant is the child's mother. (Hearing Record)
2. The child is 8 years old (DOB [REDACTED] 12). (Exhibit 1: Prior Authorization Claim Form; Appellant's Testimony)
3. CTDHP is the Department's contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] ("the treating orthodontist") is the child's treating orthodontist. (Exhibit 1, Hearing Summary)
5. On [REDACTED] 2021, CTDHP received a prior authorization request for interceptive orthodontic treatment for the child. (Exhibit 1; Hearing Summary)
6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of eight (8) points. Also included were models and x-rays of the child's teeth. The treating orthodontist indicated that the child *does not* have severe deviations affecting his mouth and underlying structures and commented, "Client has no missing teeth. #3 and #14 ectopic eruption, patient needs phase one treatment-limited upper braces to bring #3 and 14 into occlusion." The treating orthodontist indicated that the child *does not* have a deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet, open bite, or anterior impacted tooth. (Exhibit 2: The Treating Orthodontist's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
7. An ectopic eruption means the tooth is located in a place that it is not supposed to be. (Dr. D'Ambrosio's Testimony)
8. On [REDACTED] 2021, Dr. Benson Monastersky, DMD, an Orthodontic Consultant for CTDHP reviewed the dental records and evidence provided by the child's treating orthodontist and did not assign the child a score on the Malocclusion Severity Assessment. He noted that there is no presence of other severe deviations affecting the child's mouth that if left untreated would cause irreversible damage to the child's teeth and underlying structures. Dr. Monastersky noted that the child *does not* have a deep impinging overbite, functional

deviation, class III malocclusion, gingival recession, severe overjet, open bite, or anterior impacted tooth. He commented, "Does not meet Phase One treatment guidelines." Dr. Monastersky did not approve the request for interceptive orthodontic treatment. (Exhibit 3: Dr. Monastersky's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)

9. On [REDACTED] 2021, CTDHP sent an NOA to the child advising him that the prior authorization request received from his provider for interceptive orthodontic treatment is denied as not medically necessary, because the documents that his dentist gave to CTDHP provided no evidence that the requested service met the medically necessary/medical necessity care conditions set by the Department. (Exhibit 4: NOA, [REDACTED]/21)
10. On [REDACTED] 2021, the Department received the Appellant's request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing)
11. The child has received speech therapy since age three and currently receives speech therapy from his school. (Appellant's Testimony)
12. On [REDACTED] 2021, the Appellant informed CTDHP that she will submit additional information from the Speech Therapist at the child's school. (Hearing Summary)
13. On [REDACTED] 2021, pursuant to the Appellant's appeal filed on [REDACTED] 2021, Dr. Vincent Fazzino, DMD, a Dental Consultant for CTDHP conducted an appeal review of the child's dental records. He did not assign the child a score on the Malocclusion Severity Assessment. He did not find the presence of other severe deviations affecting the child's mouth that if left untreated would cause irreversible damage to the teeth and underlying structures. Dr. Fazzino commented, "Case does not meet criteria for approval." Dr. Fazzino did not approve the request for interceptive orthodontic treatment. (Exhibit 6: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
14. On [REDACTED] 2021, CTDHP sent a letter to the Appellant advising her that the request for interceptive orthodontic treatment was denied because there was no presence found of any deviations affecting the child's 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. CTDHP upheld the previously denied request for interceptive orthodontic treatment. (Exhibit 7: Determination letter, [REDACTED] 21)
15. The child is not receiving psychiatric or psychological treatment due to the condition of his mouth. (Appellant's Testimony)
16. On [REDACTED] 2021, CTDHP received a letter of medical necessity from [REDACTED] M.A. CCC-SLP, (the "Speech Pathologist") a Speech Language Pathologist with [REDACTED]. The Speech Pathologist commented, [REDACTED] currently receives specialized speech-language instruction according to his Individualized Education Plan at [REDACTED]. He was evaluated in [REDACTED] of 2020 and was found to have an articulation/phonology impairment that impacts him in the academic setting. [REDACTED]

currently participates in speech-therapy 2 x 30 minutes per 6 day cycle while at school to target his articulation/phonology goal objectives.” (Exhibit 8: Fax from the Speech Pathologist, [REDACTED]/21; Hearing Summary)

17. On [REDACTED] 2021, Dr. Fazzino, reviewed the letter from the child’s Speech Pathologist. He requested additional supporting documentation that includes a description of the child’s problem before the speech therapy regimen and the results after six months of therapy has been provided. Also requested is documentation of how often the child has seen the speech therapist. (Exhibit 9: Dr. Fazzino’s Response Letter, [REDACTED] ■)
18. On [REDACTED] 2021, and [REDACTED] 2021, a CTDHP Representative called the child’s Speech Pathologist to discuss the additional information that is requested. They left a voicemail message. (Hearing Summary)
19. CTDHP did not receive any additional information from the child’s Speech Pathologist. (Grievance and Appeals Representative’s Testimony)
20. The Speech Pathologist is difficult to reach during the summer months because school is not in session. (Appellant’s Testimony)
21. 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 not later than [REDACTED] 2021. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. 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)]

3. Orthodontic services will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Regs., Conn. State Agencies § 17-134d-35(a)]
4. Orthodontic services are limited to recipients under twenty-one (21) years of age. [Regs., Conn. State Agencies § 17-134d-35(d)]
5. "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 individuals daily functioning. . . ." [Conn. Gen. Stat § 17b-282e]
6. 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).[Regs., Conn. State Agencies § 17-134d-35(f)(1)]
7. "The study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment. . . ." [Regs., Conn. State Agencies § 17-134d-35(f)(1)(D)].
8. **Because the child's two Malocclusion Severity Assessments did not find substantial evidence regarding severe deviations affecting the child's mouth and underlying structures, interceptive orthodontic services are not determined medically necessary.**
9. **Because the Appellant did not provide evidence from a licensed child psychologist or licensed child psychiatrist indicating that the child suffered from the presence of severe mental, emotional, and/or behavioral problems,**

disturbances or dysfunctions caused by his dental deformity, interceptive orthodontic services are not determined medically necessary.

10. Because the Appellant did not provide evidence that the child's speech impediment is attributed to anatomical issues, interceptive orthodontic services are not determined medically necessary.
11. The child's malocclusion severity does not meet the requirements for medical necessity for approval of the prior authorization request for interceptive orthodontic treatment.
12. On [REDACTED] 2021, CTDHP correctly denied the request for interceptive orthodontic treatment for the child as it is not medically necessary.

**DECISION**

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

  
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Carla Hardy  
Hearing Officer

Pc: 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, 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.