

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

■■■■ 2022
Signature Confirmation

Client ID ■■■■
Case ID ■■■■
Request # 192756

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ■■■■ ■■■■ 2022, Connecticut Dental Health Partnership/CTDHP Dental Plans (“CTDHP”) sent ■■■■ ■■■■ (“child”) a notice of action denying the prior authorization request for orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On ■■■■ ■■■■ 2022, ■■■■ ■■■■ (“Appellant”) requested an administrative hearing to contest CTDHP’s denial of prior authorization of orthodontia for the child.

On ■■■■ ■■■■ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ■■■■ ■■■■ 2022.

On ■■■■ ■■■■ 2022, 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
Kate Nadeau, CTDHP Representative
Dr. Julius Gold, DDS, CTDHP Dental Consultant
Lisa Nyren, Hearing Officer

On [REDACTED] [REDACTED] 2022, the Appellant requested a continuance for the submission of additional evidence. The Fair Hearing Officer granted a continuance through [REDACTED] [REDACTED] 2022 to allow CTDHP to comment on the additional evidence submitted by the Appellant. On [REDACTED] [REDACTED] 2022, CTDHP requested a continuance which the Fair Hearing Officer granted. The hearing record closed on [REDACTED] [REDACTED] 2022.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's [REDACTED] [REDACTED] 2022 decision through the Medicaid program to deny the prior authorization request for orthodontic services for the child as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [REDACTED] [REDACTED] ("Appellant") is the mother of [REDACTED] [REDACTED] ("the child"). (Hearing Record)
2. The child is [REDACTED] ([REDACTED] years old born on [REDACTED] [REDACTED] [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] [REDACTED] [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] [REDACTED] 2022, CTDHP received a prior authorization request from the treating orthodontist to complete orthodontic services for the child. The treating orthodontist remarked, "Client has no missing teeth. Letter from therapist is attached." (Hearing Summary and Exhibit 1: Prior Authorization Request)
7. On [REDACTED] [REDACTED] 2022, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 24 points, models and x-rays of the child taken on [REDACTED] [REDACTED] 2022 and a letter from [REDACTED] ("the LMFT"), [REDACTED] [REDACTED] (the "practice") dated [REDACTED] [REDACTED] 2021. The treating orthodontist did not find evidence of the presence of other severe deviations

affecting the mouth and underlying structures. The treating orthodontist commented, "Letter from therapist is attached." (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)

8. In her [REDACTED] [REDACTED] 2021 letter, the LMFT writes, "[The child] began treatment here on [REDACTED] [REDACTED] 2021 after her mother reported concerns of social anxiety and self-esteem. ... Social appearance anxiety, which is expressed as a kind of social anxiety, is defined as the anxiety and stress that people feel when their physical appearance is being evaluated by others. ... Dental health is associated with physical, social and psychological well-being. Although it has no fatal effect, dental anomalies are known to influence a patient's quality of life. ... Social anxiety is a prominent component of Body dysmorphic disorder (BDD). ... Dissatisfaction with dental appearance is a strong predictor for low self-esteem. Oral health is an integral part of general health and can also influence the level of self-esteem. It is for all the above reasons that I ask you to reconsider your "lack of medical necessity" judgment for braces for [the child]. It is very much medically necessary for her successful social and psychological development." (Exhibit 2: Preliminary Malocclusion Assessment Record and LMFT Letter)
9. The Salzman Scale is the standardized scoring system which assigns point values to teeth used to complete the Preliminary Handicapping Malocclusion Assessment Record scoring sheet to determine eligibility for orthodontic treatment under Medicaid. Teeth are scored by CTDHP by using the models and x-rays submitted by the treating orthodontist. (Dental Consultant's Testimony)
10. Medicaid pays for orthodontia treatment when a patient scores twenty-six (26) points or more on the Preliminary Handicapping Malocclusion Assessment Record. If a patient scores under 26 points, Medicaid pays for orthodontia if a patient has a severe deviation affecting the child's mouth that if left untreated would cause irreversible damage or the child has been diagnosed by the child psychologist or child psychiatrist with emotional issues related to the patient's malocclusion. (Hearing Record)
11. On [REDACTED] [REDACTED] 2022, Dr. Benson Monastersky, DMD, CTDHP's orthodontic dental consultant, independently reviewed the child's models and x-rays, and the LMFT letter and arrived at a score of 23 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky 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. Monastersky commented, "Letter is not from a CT licensed clinical psychologist or psychiatrist." Dr. Monastersky determined that orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)

12. On [REDACTED] [REDACTED] 2022, 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 because 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)
13. On [REDACTED] [REDACTED] 2022, the Department received the Appellant's request for an administrative hearing. (Exhibit 5: Hearing Request)
14. On [REDACTED] [REDACTED] 2022, Dr. Vincent Fazzino, DMD, CTDHP dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 21 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 commented, "The recent letter from [the LMFT] has been reviewed. This does not alter the scoring record." Dr. Fazzino determined the orthodontic treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
15. On [REDACTED] [REDACTED] 2022, CTDHP notified the Appellant that the previously denied request for orthodontic services was upheld. CTDHP determined from the second review of dental records that the prior authorization request for orthodontic services remains denied. CTDHP lists the reasons for denial as: the child's score of 21 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 8: Determination Letter)
16. In [REDACTED] 2021, the child participated in weekly therapy with [REDACTED] [REDACTED] (the "primary therapist") at the practice through [REDACTED] 2021 when the primary therapist left the practice. The child continued weekly therapy at the practice with the LMFT. (Exhibit 2: LMFT Letter, Exhibit A: Primary Therapist Letter, and Appellant's Testimony)

17. On [REDACTED] [REDACTED] 2022, the Appellant submitted a letter from the primary therapist dated [REDACTED] [REDACTED] 2021 as evidence of the child's medical condition. (Exhibit A: Primary Therapist Letter and Appellant's Testimony)
18. On [REDACTED] [REDACTED] 2021, in support of orthodontic treatment for the child, the primary therapist writes, "I am writing in support of her medical claim for braces be deemed necessary, on behalf of her social and psychological development. ... Social appearance anxiety, which is expressed as a kind of social anxiety, is defined as anxiety and stress that people feel when their physical appearance is being evaluated by other people. ... An attractive appearance makes life easier and provides numerous opportunities for a balanced psychosocial development. ... Body dysmorphic disorder (BDD) is a syndrome characterized by distress secondary to imagined or minor defects in one's appearance. ... People with BDD commonly suffer from psychological anxiety. ... Social Anxiety is a prominent component of BDD, and social avoidance resulting from BDD symptoms may markedly impair social functioning. ... While there are therapeutic interventions that [the child] and I will work on in weekly therapy sessions such as developing anxiety coping strategies (e.g., increased social involvement, contact with peers, physical exercise); help the client develop healthy self-talk as a means of handling the anxiety, the necessity of the braces is the defining factor for successful treatment. ... Dissatisfaction with dental appearance is a strong predictor for low self-esteem. ... It is for this reasons that I ask that you reconsider the judgement of "lack of medical necessity" to braces for [the child] being very much medical necessity for her successful social and psychological development." (Exhibit A: Primary Therapist Letter)
19. The child has juvenile arthritis resulting in swollen joints, including swollen jaw at time making it difficult to open her mouth causing pain. (Appellant's Testimony)
20. On [REDACTED] [REDACTED] 2022, Dr. Fazzino reviewed the Primary Therapist Letter submitted by the Appellant at the administrative hearing. Dr. Fazzino concluded the Primary Therapist Letter does not meet the requirement for the approval of orthodontia for patients with less than 26 points on the Salzmann Scale and issued a notice to the Appellant indicating the request for prior authorization for orthodontic remains denied. Dr. Fazzino writes, "treatment may be appropriate if substantive documentation from a child psychiatrist or psychologist indicates a dental discrepancy is directly contributing to an emotional problem." (Exhibit 9: CTDHP Notice of Review)
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] [REDACTED] 2022. However, the close of the hearing record which had been anticipated to close on [REDACTED] [REDACTED] 2022 did not close for

the admission of evidence at the request of the Appellant until [REDACTED] 2022 resulting in a 7-day delay. Therefore, this decision is not due until [REDACTED] 2022 and is therefore timely.

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 in part that “the Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.” Conn. Gen. Stat. 17b-262
3. 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 e-Regulations System not later than twenty days after the date of implementation.

Conn. Gen. Stats. § 17b-282e

4. 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.”
5. 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)

6. "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)
7. "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)
8. 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)

9. State regulation provides as follows:

If the total score is less than [twenty-six] points 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 of 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 her practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dentofacial 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.

Regs., Conn. State Agencies § 17-134d-35(e)(2)

10. 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)

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 since the treating orthodontist and the two CTDHP dental consultants each scored less than 26 points on the Preliminary Handicapping Malocclusion Assessment Record and each failed to find the presence of other severe deviations affecting the mouth and underlying structures.

CTDHP correctly determined the study models and x-rays submitted by the treating orthodontist do not clearly support the total point

score of 26 as required by state statute for authorization of orthodontic treatment.

CTDHP was correct to find that the child's malocclusion did not meet the criteria for medically necessary as established in state statute and state regulations. Although the letters from the LMFT and primary therapist refer to the child's social anxiety and self-esteem issues, referencing Body Dysmorphic Disorder (BDD) as it relates to the child's social and psychological development, Connecticut regulation specifically states that 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 her practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dento-facial deformity is directly related to the child's mental, emotional, and/or behavior problems and that orthodontic treatment is necessary to significantly ameliorate the problems. The LMFT and primary therapists' letters do not meet this criterion.

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

On ██████ 2022, CTDHP correctly issued the Appellant a notice of action denying the treating orthodontist's request for prior authorization to complete orthodontic treatment for the child.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren

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.