

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

[REDACTED] 2022  
Signature Confirmation

Client ID [REDACTED]  
Case ID [REDACTED]  
Request # 183267

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

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

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

On [REDACTED] [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, DDS, CTDHP Dental Consultant  
Lisa Nyren, Hearing Officer

The hearing record remained open at the request of the Appellant for the submission of additional evidence . The OLCRAH did not receive any new evidence from the Appellant or CTDHP. The record closed on [REDACTED] 2021.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CTDHP's [REDACTED], 2021 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] ("Appellant") is the mother of [REDACTED] ("the child"). (Hearing Record)
2. The child is [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] [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], 2021, CTDHP received a prior authorization request from the treating orthodontist to complete orthodontic services for the child. The treating orthodontist remarked, "Impacted UR3 + UL3." (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 23 points, models and x-rays of the child taken on [REDACTED] 2021. The treating orthodontist scored teeth 7, 8, 9, and 10 as rotated with teeth 6 & 11 as closed. The treating orthodontist completed section G on the Preliminary Handicapping Malocclusion Assessment Record by checking yes

and commented “impacted UR3 + UL3.” Section G states, “The Department shall consider additional information of a substantial nature about the presence of other severe deviations affecting the mouth and underlying structures. Other deviations shall be considered severe if, left untreated; they would cause irreversible damage to the teeth and underlying structures. Is there presence of other severe deviations affecting the mouth and underlying structures? (If any, comment below.)” The treating orthodontist commented, “Impacted upper canines.” (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)

8. The Salzman Scale is the standardized point system which rates and scores orthodontic defects used to complete the Preliminary Handicapping Malocclusion Assessment Record scoring sheet to determine eligibility for orthodontic treatment under Medicaid. (Dental Consultant’s Testimony)
9. An impacted tooth occurs when there is not enough space in the patient’s dental arch for the tooth to fully erupt through the gums and become a functional tooth. An impacted tooth can remain in the gum tissue or bone never erupting. (Dental Consultant’s Testimony)
10. UR3 and UL3 refer to canine teeth number 6 and 11. (Dental Consultant’s Testimony)
11. Canine teeth typically erupt by age twelve, however eruptions can occur later. (Dental Consultant’s Testimony)
12. Dentists use x-rays, which show the angle of a tooth and the amount of space in a patient’s arch, along with timing and the age of the patient, to determine if a tooth is impacted. (Dental Consultant’s Testimony)
13. In general, crowding or lack of space for a tooth to erupt may cause a tooth to become impacted. (Dental Consultant’s Testimony)
14. A patient may or may not have any symptoms such as bleeding gums if a tooth is impacted. Impacted teeth may not be visible or poking out as they may be hidden under the gums or in the bones. Impacted teeth can develop cysts. There are variables associated with impacted teeth as some patients may not have any symptoms or require dental invention. Treatment for impacted teeth is dependent on how the tooth presents itself to the patient and/or dentist. (Dental Consultant’s Testimony)
15. Medicaid pays for orthodontia treatment when a patient scores twenty-six (26) points or more on the Preliminary Handicapping Malocclusion Assessment Record or when a patient has been diagnosed with a severe mental, emotional, or behavioral problem as a result of the patient’s malocclusion. (Hearing Record)

16. On [REDACTED] [REDACTED] 2021, Dr. Benson Monastersky, DMD, CTDHP's orthodontic dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 15 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky scored teeth 7, 8, 9, and 10 as rotated. 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, "#6 and 11 appear to be on a path to erupt on their own, Re-evaluate in one year." Dr. Monastersky 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)
17. 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 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)
18. On [REDACTED] [REDACTED] 2021, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
19. 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 19 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge scored teeth 7, 8, 9, and 10 as rotated with teeth 6 & 11 as closed. 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 commented, "#6, #11 not impacted. Path of eruption within normal. Arch length deficient, eruption occurring labial. Re-evaluate with dental maturity." 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)

20. Arch length deficient refers to not enough space and labial means more toward the lip or a little more forward and not in alignment. (Dental Consultant's Testimony)
21. 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 19 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)
22. The child's gums bleed when eating causing pain which has resulted in diet limitations and weight loss. The child chooses not to eat due to the pain caused by chewing solid food. (Appellant's Testimony)
23. Both Dr. Monastersky and Dr. Drawbridge agree with the treating orthodontist that teeth 7, 8, 9, and 10 are rotated. Dr. Drawbridge agrees with the treating orthodontist that teeth 6 & 11 are closed. (Hearing Record)
24. At this time, 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. The Appellant is seeking mental health services for the child to address the child's social and emotional issues. (Appellant's Testimony)
25. 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. However, the close of the hearing record, which had been anticipated to close on [REDACTED] 2021, did not close for the admission of evidence until [REDACTED], 2021. Therefore, this decision is due no later than [REDACTED] 2022.

### **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 Salzmänn 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 Salzmänn 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

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. CTDHP correctly determined the child's malocclusion scored less than 26 points on the Salzmann Handicapping Malocclusion Index failing to meet the 26-point criteria for severity as established in state statutes and state regulations.
10. CTDHP correctly determined the child does not have 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 as per state statute.
11. Based on the hearing record, the presence of severe deviations affecting the mouth and underlying structures cannot be determined. The child's records, which includes Panorex, models and photographs, submitted by the treating orthodontist on [REDACTED] 2021 were taken on [REDACTED] 2021. Both the treating orthodontist and Dr. Drawbridge agree teeth #6 and 11 are closed. Dr. Monastersky recommends re-evaluation in one year and Dr. Drawbridge recommends re-evaluation with dental maturity. The treating orthodontist submitted the prior authorization request eight (8) months after the child's x-rays and models were taken. Although both CTDHP dental consultants do not agree with the treating orthodontist's evaluation labeling teeth # 6 and # 11 as impacted, the hearing record supports symptoms of impacted teeth such as bleeding gums, mouth pain, and the child's age [REDACTED], therefore a re-evaluation is warranted.
12. Based on the hearing record, CTDHP's denial of the prior authorization request for orthodontia treatment for the child is remanded back for further review.

### **DECISION**

The Appellant's appeal is remanded back for further review by CTDHP.



**ORDER**

1. CTDHP must authorize new panorex x-rays, models, and photographs for the child. CTDHP should consider differences between the [REDACTED] 2021 records with the new records, along with any additional relevant information which may include testimony provided by the Appellant at the administrative hearing, to make a new eligibility determination for orthodontic treatment for the child as established by state statutes and regulations.
2. Compliance is due 14 days from the date of this decision.

*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.