

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2022  
Signature Confirmation

Case# ██████████  
Client# ██████████  
Request # 188943

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2022, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for orthodontic treatment for ██████████, her minor child, indicating that severity of child’s malocclusion did not meet the medical necessity requirement.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the decision to deny prior authorization of orthodontia.

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, 17-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing. Due to COVID-19 concerns, this hearing was held by teleconference at Appellant’s request.

The following individuals were present at the hearing:

██████████, Appellant  
Kate Nadeau, CTDHP Grievance Mediation Specialist  
Dr. Joseph D’Ambrosio, CTDHP Dental Consultant  
Almelinda McLeod, Hearing Officer

On ██████████ 2020, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the CTDHP's decision to deny the prior authorization through the Medicaid program for the child's orthodontic services is correct because such services are not medically necessary.

### **FINDINGS OF FACT**

1. The Appellant is the mother of [REDACTED], the minor child. (Hearing record)
2. The child is a [REDACTED]-year-old (DOB-[REDACTED]) participant in the Medicaid program as administered by the Department of Social Services. (Exhibit 1A, prior authorization)
3. Connecticut Dental Health Partnership ("CTDHP") is the dental subcontractor for the Ct Department of Social Services.
4. Dr. [REDACTED] DMD of [REDACTED] is the treating orthodontist. (Exhibit 1A, Prior Authorization form)
5. On [REDACTED] 2022, CTDHP received a prior authorization request for braces for the child. The treating orthodontist scored 34 points on the Malocclusion Severity Assessment and commented "Full IB Ext A and #5, #12 close space. Pt mom do not want extractions. CI. II div. 1 5-10% OB; overjet 5-6 spacing, intra arch crowding midline retrognathic mandible, and mandibular asymmetry" He scored teeth 23,24,25 and 26 as crowded; teeth 8,4,6,22 and 27 as rotated; Open space between 7, 8, 9,10, 5 and 12 in section E. Intra-arch Deviation. He scored teeth 7,8,9,10 as overjet in section F.1. Inter-Arch Deviation (Anterior Segment). He scored the right and left Distal in the Canine,1<sup>st</sup> and 2<sup>nd</sup> Premolar and 1<sup>st</sup> Molar No other deviation was indicated. The treating orthodontist did not indicate severe deviation, that if left untreated would cause irreversible damage. (Exhibit #2 A, Preliminary Handicapping Malocclusion Severity Assessment form)
6. The Malocclusion Severity Assessment record is a test measuring the severity of malocclusion. (Hearing record)
7. On [REDACTED] 2022, Dr. Benson Monastersky (independent orthodontic dental consultant with CTDHP) evaluated the x-rays and models of the child's teeth and arrived at a score of 23 on the malocclusion assessment record. In section E. Intra-Arch Deviation, he scored teeth 23,24,25,26,27 as crowded; teeth 7, 4 as rotated and open space between 7,8,9,10, 6,11.

- In section F.1. Inter-Arch Deviation (Anterior Segment) he scored teeth 8,9,10 as overjet. In section F. 2. Inter-Arch Deviation (Posterior Segment) he scored the right Mesial 1<sup>st</sup> Molar. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record)
8. Dr. Monastersky did not find evidence of irregular growth or development of the jaw bones. Noted there are no evidence of severe deviations affecting the mouth and underlying structures nor evidence of emotional distress related to the child's teeth. Dr. decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut's requirement of being medically necessary. (Exhibit #3, Preliminary Handicapping Malocclusion Assessment record)
  9. On [REDACTED] 2022, CTDHP issued a Notice of Action to the Appellant denying orthodontic treatment as not medically necessary since the child's malocclusion score of 23 was less than the 26 points needed to be covered. The orthodontic request for treatment was also denied as there was no presence found of severe deviations affecting the mouth or underlying structures, which left untreated would cause irreversible damage to the teeth or underlying structures. There was no evidence of a diagnostic evaluation by a licensed psychiatrist or psychologist related to the condition of the child's teeth. (Exhibit #4A, Notice of Action)
  10. On [REDACTED] 2022, the Appellant requested an administrative hearing. (Exhibit 5A, Hearing request)
  11. On [REDACTED] 2022, CTDHP independent dental consultant, Dr. Vincent Fazzino conducted an appeal review using the models and x-rays of the child's teeth and scored 24 on the Malocclusion Severity Assessment. In section E. Intra-Arch Deviation, teeth 23,24,25,26 and 27 were scored as crowded; Teeth 7,4 and 6 as rotated and open space between 7,8,9,10 and 11. In section F.1. Inter-Arch Deviation (Anterior Segment) teeth 8 and 9 were scored as overjet. In section F. 2. Inter-Arch Deviation (Posterior Segment) he scored in DISTAL, the right and left Canine, the right 1<sup>st</sup> premolar, and the left 2<sup>nd</sup> Premolar. (Exhibit 6A, Preliminary Handicapping Malocclusion Assessment record)
  12. Dr. Vincent Fazzino did not find evidence of irregular growth or development of the jaw bones. There was no evidence of emotional issues directly related to the child's dental issues. Dr. Fazzino's decision was to deny the approval of the prior authorization as the case did not meet the State of Connecticut's requirement of being medically necessary. (Exhibit #6A, Preliminary Handicapping Malocclusion Assessment record)
  13. On [REDACTED] 2022, CTDHP issued a determination notice advising the Appellant that the appeal review was conducted and has recommended

- that CT Department of Social Services (“CTDSS”) uphold the previously denied request for braces. The reasons listed for the denial was that child’s score of 24 was less than the 26 points needed to be covered, no presence found of any deviations affecting the mouth or underlying structures and no evidence presented of any treatment by a licensed psychiatrist or psychologists related to the condition of his teeth. (Exhibit #7A, Determination Letter)
14. On ██████████ 2022, CTDHP received a faxed diagnosis and treatment plan from the treating orthodontist. He writes:
- “Class II division 1, 10% overbite with dental overjet of 4-5mm. In the maxillary arch he has spacing and dental rotations. In the mandible, he has lower incisor crowding sand mandibular cuspid rotations. His maxillary incisors are excessively proclined” as the child’s diagnosis.
- “Full banding with edgewise appliance and class I and II intermaxillary elastics to reduce the dental overjet. The maxillary first premolars will be extracted and the #5 and #12 spaces closed with class I and II elastics to reduce the dental overjet. Retention will be with Hawley retainers and Essix/Essix retainers.” (Exhibit 9B, Treating orthodontist letter)
15. On ██████████ 2022, CTDHP received the copy of Dr. Fazzino’s Malocclusion Assessment dated ██████████ ██████████ 2022, updated with a comment stating “Additional information has been sent by ██████████ This does not alter the scoring record.” (Exhibit 10A, Preliminary Handicapping Malocclusion Assessment record)
16. Class II division is a classification system used to describe how the upper jaw and the lower jaw relate to each other. (Dental consultant testimony)
17. The retrognathic mandible means that the lower jaw is pushed back with respect to the upper jaw. (Dental consultant testimony)
18. The child needs braces because lips and mouth protrude from the lower jaw. The Appellant agreed to the extractions given the option between the extractions or lower jaw surgery. The Appellant is concerned of the drastic change between the scoring from the treating orthodontist, who physically saw the child and scored 34, and the dental consultants who scored 23 and 24 respectively. (Appellant testimony)
19. In the first box of the Malocclusion Assessment, Section E. Intra-Arch Deviation, there was a 2-point difference between the treating orthodontist who scored 18 and the two dental consultants who both scored 16 points. The consensus was that teeth 23, 24, 25 and 26 were crowded at 1 point each; tooth 4 was rotated at 1 point and open space between 7,8,9 and 10

- at 2 points each. To score for a rotated tooth, the tooth must be rotated by 45 degrees. The dental consultants agreed that teeth 8, 6, 22 and 27 did not meet the criteria for the teeth to be scored as rotated. (Exhibits 2A, 3A, 6A and 10A)
20. In the 2<sup>nd</sup> box section F. Inter-Arch Deviation 1. Anterior segment there was a 4-point difference regarding the number of teeth scored for overjet. The criteria for an overjet to be scored, the tooth must measure at least 3MM from the upper to the lower teeth. The consensus between the treating orthodontist and the two dental consultants was that 8 and 9 were overjet. (Exhibits 2A, 3A, 6A and 10A)
21. The major difference in the scoring comes from the 3<sup>rd</sup> box, Section F. Inter-Arch Deviation 2. Posterior Segments where the number of teeth affected in this section relate to how the upper teeth relate to the lower teeth. The treating orthodontist scored 8 teeth whereas the two dental consultants did not. In this case, the upper and lower jaw do not line up evenly, however, the dental models and x-rays did not support a Class II division 1 classification. (Exhibits 2A, 3A, 6A and 10A)
22. The child does not have a problem with chewing or swallowing his food. The child has not been evaluated nor treated with a licensed psychologist or psychiatrist for any emotional or mental health issues directly related to the condition of his teeth. (Appellant testimony)
23. 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 the hearing on [REDACTED] 2022. On [REDACTED] 2022, the administrative hearing was held; therefore, this decision is due not later than [REDACTED] 2022.

### **CONCLUSIONS OF LAW**

1. Section 17b-262 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the medical assistance program.
2. Section 17b-259b of the Ct General Statutes ("Conn. Gen. Stat") provides (a) 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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.

(c) 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.

3. Connecticut Agencies Regulations § 17-134d-35 (f) (1) provide 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/ she may proceed with the diagnostic assessment.
4. Connecticut Agencies Regulations § 17-134d-35 (b) (3) define the Preliminary Handicapping Malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment.

5. Sec. 17b-282 (e) Conn. Gen. Stat. Orthodontic services for Medicaid recipients under twenty-one years of age. 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.
6. Connecticut Agencies Regulations §17-134d-35 (e) (2) provides in relevant part that 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 if 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 practice to child psychiatry or child psychology. The evaluation must clearly and substantially document how the dento-facial 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.
7. **The hearing record reflects that the child's study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26-point score on the preliminary Malocclusion assessment report.**
8. **CTDHP was correct to deny the prior authorization request for orthodontic services as the Malocclusion did not meet the 26 points on the Preliminary Handicapping Malocclusion Assessment Record as required.**
9. **The hearing record reflects that the child did not have severe deviations affecting the mouth and underlying structures in accordance with the regulations.**

10. CTDHP was correct to deny the prior authorization request for orthodontic services as the criteria of severity was not met. There was no evidence presented indicating the child had severe deviations affecting the mouth and underlying structures.
11. The hearing record shows that the child has not been evaluated or diagnosed by a child psychiatrist or child psychologists with any severe emotional, mental and / or behavioral issues related to the condition of her teeth which would be significantly helped with orthodontic treatment.
12. CTDHP was correct to deny prior authorization request for orthodontic services as there was no evidence that the child suffered from emotional issues related to the condition of her teeth which would be significantly helped with braces.
13. CTDHP correctly determined the request for braces for the child was not medically necessary.

### **DECISION**

The Appellant's appeal is DENIED.

*Almelinda McLeod*  
Almelinda McLeod  
Hearing Officer

CC: Magdalena Carter, CTDHP PO Box 486 Farmington, Ct 06032  
Rita LaRosa, CTDHP PO Box 486 Farmington, Ct. 06032

## 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 Legal Counsel, Regulations, and Administrative Hearings, 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, 55 Elm Street, 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 his 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.