

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

██████████
██████████
Request # 192060

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2022, 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 orthodontic treatment indicating it was not medically necessary.

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

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

On ██████████ 2022, the Appellant requested the hearing to be rescheduled.

On ██████████ 2022, OLCRAH issued a notice rescheduling the administrative hearing for ██████████
██████████ 2022.

On ██████████, 2022, the hearing was not held due to an issue with the interpreter.

On ██████████, 2022, OLCRAH issued a notice rescheduling the administrative hearing for ██████████
██████████ 2022.

On [REDACTED] 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. The following individuals participated in the hearing:

[REDACTED], Appellant

[REDACTED], Interpreter, ITI

Rosario Monteza, Grievance and Appeals Representative, CTDHP

Dr. Greg Johnson, Dental Consultant, CTDHP

Carla Hardy, Hearing Officer

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

The hearing record remained open for CTDHP to send additional evidence which was received. The hearing record closed on [REDACTED] 2022.

This hearing decision will be translated in Spanish and sent to you on another day.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The child is 13 years old (DOB [REDACTED]/09). (Exhibit 1: Prior Authorization Claim Form; Appellant's Testimony)
2. The Appellant is the child's grandmother and guardian. (Hearing Record)
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] 2022, CTDHP received a prior authorization request for braces for the child from the treating orthodontist. (Exhibit 1; Hearing Summary)
6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of twenty-nine (29) points. Also included were models and x-rays of the child's teeth. The treating orthodontist did not notate that the child has 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. On [REDACTED] 2022, Dr. Robert Gange, DDS, an Orthodontic Consultant for CTDHP reviewed the dental records and evidence provided by the child's treating orthodontist and assigned him a score of twenty-four (24) points 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. He did not approve the request for braces. (Exhibit 3: Dr. Gange's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
8. On [REDACTED] 2022, CTDHP sent an NOA to the child advising him that the prior authorization request received from his provider for braces (orthodontics) was denied as not medically necessary, because (1) his score of twenty-four (24) points on the Preliminary Handicapping Malocclusion Assessment Record is less than the required twenty-six (26) points; 2) "There is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures and; 3) There is no evidence that a diagnostic evaluation has been completed by a licensed child psychologist or a licensed child psychiatrist indicating that his dental condition is related to the presence of severe mental, emotional, and/or behavior problems, disturbances or dysfunctions as defined in the current edition of the Diagnostic Statistical Manual and that orthodontic treatment will significantly improve such problems, disturbances or dysfunctions." (Exhibit 4: NOA [REDACTED] 22)
9. On [REDACTED], 2022, the Department received the Appellant's request for an appeal/hearing. (Exhibit 5: Request for appeal and administrative hearing; Hearing Summary)
10. On [REDACTED], 2022, pursuant to the Appellant's appeal filed on [REDACTED], 2022, Dr. Vincent Fazzino, DMD, a Dental Consultant for CTDHP conducted an appeal review of the child's dental records. He assigned the child's malocclusion a score of twenty-four (24) points. 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 did not approve the request for braces. (Exhibit 6: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record; Hearing Summary)
11. On [REDACTED] 2022, CTDHP sent a determination letter to the Appellant advising her that the child's score of twenty-four (24) points was less than the twenty-six points (26) required to receive coverage for braces. There was no presence of any deviations found affecting the mouth or underlying structures or the presence of mental, emotional and/or behavior problems, disturbances, or dysfunctions related to the child's teeth. CTDHP upheld the previously denied request for braces. (Exhibit 7: Determination letter, [REDACTED]/22)
12. On [REDACTED], 2022, CTDHP received a letter from the Special Education Secretary at [REDACTED]. The secretary confirmed that

the child is a student and receives speech therapy at the school. (Exhibit 8: Letter from the school Secretary; Hearing Summary)

13. On ██████ 2022, CTDHP requested additional information from the speech therapist. (Exhibit 10: Request for Additional Information; Hearing Summary)
14. On ██████, 2022, Dr. Fazzino reviewed the letter from the school secretary. He did not approve the request for braces. (Exhibit 11: Dr. Fazzino's Response Letter, ██████/22; Hearing Summary)
15. On ██████ 2022, CTDHP received a letter from ██████ (the "speech-language pathologist"), MA, CCC/SLP, the Speech-Language Pathologist. She commented, ([The child] has been receiving speech-language services since he was first identified as having a language disorder in ██████ 2016. At the time of that evaluation and in subsequent evaluations and participation in Speech-Language therapy, he has not presented with a speech sound disorder... Administration of the Goldman-Fristoe Test of Articulation, 3rd Edition (GFTA3) revealed no articulation difficulties... A speech sample revealed intelligibility of speech to be good for known and unknown communication partners at the conversational level. [The child] receives 2 hours of speech services/month to address expressive language, receptive language and social communication skills as it impacts his ability to access a free and appropriate public education." (After Hearing Exhibit 13: Letter from the Speech-Language Pathologist; After Hearing Exhibit 15: Hearing Summary Amendment)
16. On ██████ 2022, Dr. Fazzino reviewed the letter from the Speech-Language Pathologist. He commented, ("She stated the [the child's] testing revealed no articulation difficulties. She did not indicate that the child's speech impairments are the result of any anatomical issues which would be improved with orthodontic treatment." (After Hearing Exhibit 14: Dr. Fazzino's Response Letter, ██████/22; Exhibit 15)
17. The child is not receiving psychiatric or psychological treatment due to the condition of his mouth. (Appellant's Testimony)
18. The child does not have pain nor infection. (Appellant's Testimony)
19. 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 ██████ 2022. Therefore, this decision is due not later than ██████ 2022. However, the Appellant requested a reschedule of the hearing which caused a 12-day delay. Therefore, this decision is due ██████ 2022. (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 were less than 26 points and there was no substantial evidence presented regarding the presence of severe deviations affecting his mouth and underlying structures, 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 the child suffered from the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions caused by his dental deformity, orthodontic services are not determined medically necessary.**
10. **The child's malocclusion severity does not meet the requirements for medical necessity for approval of the prior authorization request for orthodontic treatment.**
11. **CTDHP correctly denied the request for orthodontic treatment for the child as it is not medically necessary.**

DECISION

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



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.