

The hearing record closed [REDACTED], 2022.

STATEMENT OF ISSUE

The issue is whether CTDHP's denial of prior authorization for the child's orthodontic services for lack of medical necessity is supported by State statute and regulation.

FINDINGS OF FACT

1. The child is [REDACTED] years old. (Appellant Testimony)
2. The child has dental coverage through HUSKY Health. (CTDHP Exhibit 4)
3. CTDHP is the Department of Social Services' dental contractor. (CTDHP Representative Testimony)
4. CTDHP received a request from [REDACTED] (the "treating practice") for prior authorization of the child's orthodontic services. (CTDHP Exhibit 1)
5. On [REDACTED] 2022, an employee of the treating practice scored the severity of the child's malocclusion as 34 points on a *Preliminary Handicapping and Malocclusion Assessment Record*.¹ This *Preliminary Handicapping and Malocclusion Assessment Record* does not provide the employee's job title or educational degree. (CTDHP Exhibit 2a)
6. The employee of the treating practice left unanswered or blank the sections of the *Preliminary Handicapping and Malocclusion Assessment Record* that inquired about the presence of other severe deviations affecting the mouth and underlying structures, that if left untreated would cause irreversible damage to the teeth and underlying structures. (CTDHP Exhibit 2a)
7. The child has not been diagnosed with a mental illness. (Appellant Testimony)
8. Benson Monastersky, D.M.D. (the "first dental reviewer"), Dr. Vincent Fazzino, D.M.D. (the "second dental reviewer"), and Dr. Geoffrey Drawbridge, D.D.S. (the "third dental reviewer") are CTDHP dental consultants. (CTDHP Exhibits 3a, 6a, and 9)
9. On [REDACTED] 2022, the first dental reviewer electronically signed a *Preliminary Handicapping and Malocclusion Assessment Record* after reviewing the child's panorex and clads. (CTDHP Exhibit 3a)
10. On [REDACTED] [REDACTED] 2022, CTDHP denied the treating practice's request for prior authorization of the child's orthodontic services. (CTDHP Exhibit 4)

¹ The *Preliminary Handicapping and Malocclusion Assessment Record* is identified in State statutes as the Salzmann Handicapping Malocclusion Index.

11. On [REDACTED], 2022, the Appellant filed a request for an administrative hearing. (Hearing request)
12. On [REDACTED] 2022, the second dental reviewer reviewed the child's panorex and clads and scored the severity of the child's malocclusion as equaling 20 points on a *Preliminary Handicapping and Malocclusion Assessment Record*. (CTDHP Exhibit 6a)
13. The second dental reviewer noted that there were no severe deviations that if left untreated would cause irreversible damage to the child's teeth and underlying structures. (CTDHP Exhibit 6a)
14. On [REDACTED] [REDACTED], 2022, CTDHP denied the treating practice's request for prior authorization of the child's orthodontic services. (CTDHP Exhibit 7)
15. During the course of the [REDACTED] 2022 hearing, CTDHP emailed the first dental reviewer's *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP Exhibit 3a-as submitted by email on [REDACTED] 2022)
16. The hearing officer sustained the Appellant's objection to CTDHP's emailed submission of Exhibit 3a at the [REDACTED], 2022 hearing. (Hearing record)
17. The hearing officer ordered CTDHP to submit a completed blind review of the severity of the child's malocclusion using a dental consultant from its pool who had not already completed an evaluation for the child using the *Preliminary Handicapping and Malocclusion Assessment Record*. (Hearing record)
18. On [REDACTED], 2022, the third dental reviewer reviewed the child's panorex and clads and scored the severity of the child's malocclusion as equaling 22 points on a *Preliminary Handicapping and Malocclusion Assessment Record*. (CTDHP Exhibit 9)
19. The third dental reviewer noted that there were no severe deviations that if left untreated would cause irreversible damage to the child's teeth and underlying structures. (CTDHP Exhibit 9)
20. Connecticut General Statutes § 17b-61 (a) provides: "The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60, ... , provided the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension, or when the commissioner documents an administrative or other extenuating circumstance beyond the commissioner's control...."

On [REDACTED], 2022, the OLCRAH received the Appellant's faxed hearing request; this hearing decision then would have become due by no later than [REDACTED] 2022. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

The Department has the authority under State statute to administer the Medicaid program in Connecticut.

2. Section 17-134d-35 of the Regulations of Connecticut State Agencies addresses orthodontic services provided under the early and periodic screening, diagnosis and treatment (EPSDT) program.

“Orthodontic services will be paid for when (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations.” Conn. Agencies Regs. § 17-134d-35 (a).

As a HUSKY Health participant under the age of 21 years, the child is subject to the Medicaid program’s rules regarding when orthodontic services are authorized.

3. “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....” Conn. Gen. Stat. § 17b-282e.

The Appellant did not establish that the employee of the treating practice correctly scored the severity of the child’s malocclusion on his or her [REDACTED] 2022 Preliminary Handicapping and Malocclusion Assessment Record.

It is reasonable to conclude that the severity of the child’s malocclusion is less than 26 points on a correctly scored *Preliminary Handicapping and Malocclusion Assessment Record*, based on the overall consistency in scoring between the [REDACTED] 2022 review completed by the second dental reviewer and the [REDACTED], 2022 blind review completed by the third dental reviewer.

4. Section 17b-282e of the Connecticut General Statutes provides:
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....

Conn. Gen. Stat. § 17b-282e.

Section 17-134d-35(e) of the Regulations of Connecticut State Agencies addresses the need for orthodontic services. Subsection (e)(2) provides:

If the total score is less than [twenty-six (26)] 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 [sic] that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems.

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

CTDHP correctly determined that the Appellant has not established by substantive information the existence of severe deviations adversely affecting the child's oral facial structures that if untreated would lead to irreversible damage to the child's teeth and underlying structures.

CTDHP correctly determined that a licensed child psychiatrist or a licensed child psychologist has not performed a diagnostic evaluation of the child to substantiate 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.

CTDHP correctly found that the child did not meet either of the two permitted exceptions at Conn. Gen. Stat. § 17b-282e to permit authorization of orthodontic services for a malocclusion with a severity of less than 26 points on an objectively scored *Preliminary Handicapping Malocclusion Assessment Record*.

5. Section 17b-259b (a) of the Connecticut General Statutes provides:

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).

Orthodontic services to treat the child's malocclusion is not medically necessary, as the term "medically necessary" is defined at Conn. Gen. Stat. § 17b-259b (a).

CTDHP's denial of prior authorization for the child's orthodontic services is supported by State statute and regulation.

DISCUSSION

CTDHP cited a computer software issue as the reason that the first reviewer's [REDACTED] 2022 *Preliminary Handicapping Assessment Record*—CTDHP Exhibit 3a—incorporated marks that were barely discernable² to identify individual teeth in misalignment. The discernable marks were so miniscule (“\” or “/”) they could be confused for stray copier ink or flyspecks. When the hearing officer directed the CTDHP Representative's attention to this exhibit, CTDHP submitted a purported clean copy of it during the hearing by email to the hearing officer and the Appellant; the first reviewer's marks to identify individual teeth are an “X” on this version of CTDHP Exhibit 3a.

The Appellant objected to this submission by CTDHP, citing her concern that the new document may not be an accurate copy. The hearing officer sustains the Appellant's objection. CTDHP Exhibit 3a (as originally submitted) is excluded from consideration by the hearing officer in formulating this Decision due to unreadability; CTDHP Exhibit 3a (as submitted during the hearing) is excluded as it may not be a clean copy of the original, due to the software issue testified to by the CTDHP Representative.

At the hearing, the hearing officer ordered CTDHP to utilize a third dentist from its pool to complete a blind review and submit a *Preliminary Handicapping Malocclusion Assessment Record* with his findings. The third dental consultant completed a blind review of the child's panorex and clads on [REDACTED], 2022 (CTDHP Exhibit 9).

² In CTDHP Exhibit 3a, some marks appear to be indiscernible or omitted entirely as the number of teeth marked did not result mathematically in the numeric totals listed in the rightmost columns of certain rows.

Two CTDHP dental consultants—the second and third dental reviewer—found that the severity of the child’s malocclusion equaled 20 points and 22 points, respectively, on the *Preliminary Handicapping Malocclusion Assessment Record*. Notably, both the second and third dental reviewers scored the Posterior Segments as equaling zero and the Anterior Segments as equaling eight points; the employee of the treating practice had scored those sections as equaling eight points and 16 points, respectively.

The scoring of the Posterior Segment and Anterior Segment is important as it shows that the dental reviewers agreed individually and independently as to the values to be assigned to those two sections.³ It is reasonable to conclude that the dental reviewers correctly scored the *Preliminary Handicapping Malocclusion Assessment Record*, when considering that the third dental reviewer completed a blind review of the panorex and clads.

The severity of the child’s malocclusion does not meet the criteria provided at Conn. Gen. Stat. § 17b-282e. The child’s circumstances also do not meet the two exceptions to the statutory requirement to meet or exceed that 26-point criteria, as those exceptions are provided at Conn. Agencies Regs. § 17-134d-35(e).

DECISION

The Appellant’s appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Magdalena Carter, CTDHP
Rita LaRosa, CTDHP

³ Had the employee of the treating practice also scored the Posterior Segments and Anterior Segments as zero and eight points, respectively, he or she would have arrived at a total score of 18 points for the severity of the child’s malocclusion. (CTDHP Exhibits 2a, 6a, and 9)

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.