

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

■■■■ 2023  
Signature Confirmation

Client ID ■■■■  
Case ID ■■■■  
Request # 215102

**NOTICE OF DECISION**

**PARTY**

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**PROCEDURAL BACKGROUND**

On ■■■■ 2023, Connecticut Dental Health Partnership/CTDHP Dental Plans (“CTDHP”) sent ■■■■ ■■■■ (“minor child”) a notice of action denying the prior authorization request for orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On ■■■■ 2023, ■■■■ (“Appellant”) requested an administrative hearing to contest CTDHP’s denial of prior authorization of orthodontia for the minor child.

On ■■■■ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ■■■■ 2023.

On ■■■■ 2023, 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 via teleconference at the Appellant’s request.

The following individuals called in for the hearing:

■■■■ Appellant  
Rosario Monteza, CTDHP Representative  
Dr. Julius Gold, DDS, CTDHP Dental Consultant  
Lisa Nyren, Hearing Officer



between mandibular teeth to maxillary teeth as mesial on the assessment record accounting for 8-points of the total 30-points. (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)

8. An anterior crossbite is a class III malocclusion. It occurs when the upper teeth (teeth 7, 8, 9, and 10) are positioned behind the lower teeth (teeth 23, 24, 25, and 26). One tooth or all four teeth can be in crossbite. Anterior crossbite usually requires surgery when the jawbone is fully matured between the ages of 18 years to 20 years. (Dental Consultant's Testimony)
9. Medicaid approves payment for orthodontia treatment when a patient scores twenty-six (26) points or more on the assessment record. CTDHP evaluates the patient's models and x-rays submitted by the treating orthodontist to complete and score the assessment record using the Salzman Scale, a dental point system. (Dental Consultant Testimony and Hearing Summary)
10. On [REDACTED] [REDACTED] 2023, Dr. Robert Gange, DDS, CTDHP's orthodontic dental consultant, independently reviewed the minor child's models and x-rays and arrived at a score of 17 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange commented, "Provider comments scored." Dr. Gange did not score any teeth in crossbite but scored teeth 8 and 9 in overjet. Dr. Gange did not score the relationship between mandibular teeth to maxillary teeth as mesial on the assessment record. Dr. Gange did not find evidence of severe irregular placement of the minor child's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Gange determined that orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)
11. On [REDACTED] [REDACTED] 2023, CTDHP notified the minor 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 minor 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 minor 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 would significantly improve such problems, disturbances, or dysfunctions. (Exhibit 4: Notice of Action for Denied Services or Goods)

12. On [REDACTED] [REDACTED] 2023, the Department received the Appellant's request for an administrative hearing contesting CTDHP's decision to deny orthodontic treatment for the minor child. (Exhibit 5: Hearing Request)
13. On [REDACTED] [REDACTED] 2023, Dr. Vincent Fazzino, DMD, CTDHP dental consultant, conducted an appeal review. Dr. Fazzino independently reviewed the minor child's models and x-rays and arrived at a score of 16 points on a completed assessment record. Dr. Fazzino scored teeth 8 and 9 in crossbite for a score of 4-points of the 16 points and Dr. Fazzino did not score the relationship between mandibular to maxillary teeth as mesial. Dr. Fazzino did not find evidence of severe irregular placement of the minor child's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Fazzino determined the orthodontic treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
14. On [REDACTED] [REDACTED] 2023, 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 minor child's score of 16 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 minor child's teeth. (Exhibit 7: Determination Letter)
15. The Appellant seeks coverage for orthodontia treatment to alleviate the minor child's discomfort and pain. The minor child complains of ear pain, jaw pain, and tooth pain. The pain can wake her up in her sleep. The minor child's diet is limited because chewing hard food, such as meat, is painful. The Appellant fears the pain will only increase as her daughter matures. (Appellant's Testimony)
16. The minor child met with an ear nose and throat specialist ("ENT") to address her ear pain. After numerous tests, the ENT concluded the minor child's ear pain is caused by the minor child's misaligned bite not by an injury or infection to the ear. (Appellant's Testimony)
17. The minor child is not in treatment for mental, emotional, or behavioral problems, disturbances or dysfunctions with a qualified psychiatrist or psychologist. (Appellant's Testimony)
18. On [REDACTED] [REDACTED] 2023, the hearing record closed. No additional evidence was received from the Appellant. No additional review was received from CTDHP.

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 [REDACTED] [REDACTED] 2023. However, the close of the hearing record, which had been anticipated to close on [REDACTED] [REDACTED] 2023, did not close until [REDACTED] [REDACTED] 2023 at the Appellant's request to allow additional time to submit additional medical evidence. The close of the hearing record was further extended through [REDACTED] [REDACTED] 2023, to allow the CTDHP the opportunity to comment to the additional evidence submitted by the Appellant. Because this [REDACTED]-day delay in the close of the hearing record arose from the Appellant's request, this final decision is not due until [REDACTED] [REDACTED] 2023, 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 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 the study models and x-rays submitted by the treating orthodontist do not clearly support the total point score of 26 on the assessment record as required by state statute for authorization of orthodontic treatment under Medicaid.**

**CTDHP correctly determined the minor child's malocclusion did not meet the criteria for severity, or 26 points as established in state statute, and lacked the presence of severe deviations affecting the mouth and/or underlying structures as evidenced by the completed Preliminary Malocclusion Assessment Records and the lack of evidence submitted by the treating orthodontist. Neither CTDHP dental consultants scored the relationship between mandibular to maxillary teeth as mesial accounting for 8-points by the treating orthodontist of her 30-points. Additionally, neither CTDHP dental consultants agreed with the treating orthodontist regarding teeth in crossbite resulting in scores under 26 points on the assessment records.**

CTDHP correctly determined the minor child does not have the presence of severe mental, emotional, or behavioral problems, disturbances or dysfunctions directly related to her malocclusion, 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 minor child's daily functioning as per state statute. The hearing record is void of any evidence to support such a diagnosis.

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

CTDHP was correct to deny the prior authorization request for orthodontia services because the minor child scored less than twenty-six points under the Salzman Handicapping Malocclusion Index and the minor child does not meet the medical necessity criteria for orthodontic services, in accordance with state statute and state regulations.

On ■■■■■ 2023, CTDHP correctly issued the Appellant a notice of action denying the treating orthodontist's request for prior authorization to complete orthodontic treatment for the minor child under Medicaid.

### 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.