

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 # 202822

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2022, Connecticut Dental Health Partnership/CTDHP Dental Plans (“CTDHP”) sent ██████████ (“teen”) a notice of action denying the prior authorization request for orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

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

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, 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
██████████ Appellant’s Daughter/Teen
Rosario Monteza, CTDHP Representative
Dr. Brett Zanger, DMD, CTDHP Dental Consultant
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's [REDACTED] 4, 2022 decision through the Medicaid program to deny the prior authorization request for orthodontic services for the teen as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [REDACTED] [REDACTED] ("Appellant") is the mother of [REDACTED] [REDACTED] (the "teen"). (Hearing Record)
2. The teen is [REDACTED] ([REDACTED] years old born on [REDACTED] [REDACTED] [REDACTED] (Exhibit 1: Prior Authorization Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record and Exhibit 5: Hearing Request)
3. The teen 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 teen's treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
6. On [REDACTED] [REDACTED] 2022, CTDHP received a prior authorization request from the treating orthodontist to complete orthodontic services for the teen. The treating orthodontist commented, "Impacted #6." (Hearing Summary and Exhibit 1: Prior Authorization Request)
7. On [REDACTED] [REDACTED] 2022, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score totaling 20 points, models, x-rays, and photographs of the teen taken on [REDACTED] [REDACTED] 2022. The treating orthodontist found the presence of other severe deviations affecting the mouth and underlying structures and commented, "Impacted #6." (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)
8. An impacted tooth means the tooth has not erupted. An impacted tooth remains under the gums or bones failing to erupt. (Dental Consultant's Testimony)
9. Medicaid approves payment for orthodontia treatment when a patient scores twenty-six (26) points or more on the Preliminary Handicapping Malocclusion

Assessment Record. CTDHP evaluates the patient's models and x-rays submitted by the treating orthodontist to complete and score the Preliminary Handicapping Malocclusion Assessment Record using the Salzman Scale. The Salzman Scale is a dental scoring system used around the country to evaluate tooth placement of a patient and irregularities. The Salzman Scale assigns points to incorrectly positioned teeth based on the severity of the deviation of the tooth. (Dental Consultant Testimony)

10. On [REDACTED] [REDACTED] 2022, Dr. Vincent Fazzino, DMD CTDHP's orthodontic dental consultant, independently reviewed the teen's models and x-rays and arrived at a score of 23 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino commented, "Tooth #6 is labially positioned. Please resubmit case in 9-12 months." Dr. Fazzino did not find evidence of severe irregular placement of the teen's teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Fazzino determined that orthodontia services were not medically necessary. (Hearing Summary and Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)
11. A labially positioned tooth means the tooth is erupting toward the lip, not in its normal position. (Dental Consultant Testimony)
12. On [REDACTED] [REDACTED] 2022, CTDHP notified the teen 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 teen'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 teen 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)
13. On [REDACTED] [REDACTED] 2022, the Department received the Appellant's request for an administrative hearing contesting CTDHP's decision to deny orthodontic treatment for the teen. (Exhibit 5: Hearing Request)
14. On [REDACTED] [REDACTED] 2022, Dr. Geoffrey Drawbridge, DDS, CTDHP dental consultant, conducted an appeal review. Dr. Drawbridge independently reviewed the teen's models and x-rays and arrived at a score of 23 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge commented, "#6 erupting labially – not impacted (scored as

closed).” Dr. Drawbridge did not find evidence of severe irregular placement of the teen’s teeth within the dental arches and no irregular growth or development of the jawbones. Dr. Drawbridge determined the orthodontic treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)

15. On [REDACTED] [REDACTED] 2022, 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 teen’s score of 23 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 teen’s teeth. (Exhibit 7: Determination Letter)
16. Under Section E: Intra-arch deviation on the Preliminary Handicapping Malocclusion Assessment Record, the treating orthodontist, Dr. Fazzino and Dr. Drawbridge scored the following teeth 7, 8, 9, 11, 20, 22, 23, 24, 25, 26, and 27 as crowded or rotated. The treating orthodontist scored tooth #6 as crowded with Dr. Fazzino and Dr. Drawbridge scoring tooth #6 as closed. The treating orthodontist scored 18 points under Section E with Dr. Fazzino scoring 20 and Dr. Drawbridge scoring 18. Both Dr. Fazzino and Dr. Drawbridge agree with the treating orthodontist scoring tooth 7 in cross bite. Both Dr. Fazzino and Dr. Drawbridge determined tooth # 6 as not impacted but labially erupting disagreeing with the treating orthodontist. The resulting scores on the Preliminary Handicapping Malocclusion Assessment Record are 20 treating orthodontist, 23 and 23 CTDHP dental consultants. (Exhibits 2, 3, and 6: Preliminary Handicapping Malocclusion Assessment Records)
17. The teen seeks coverage for orthodontia treatment because her teeth are crowded and there is not enough space for the teeth to correctly align. A tooth on the top right of her gum line is sticking out from the gums with no place to fit in its normal position. Two teeth on the bottom of her gums do not have the space to fit in their normal position. This causes mouth pain for the teen. (Teen’s Testimony)
18. The teen is not in treatment for mental, emotional, or behavioral problems, disturbances or dysfunctions with a qualified psychiatrist or psychologist. (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 [REDACTED] [REDACTED] 2022. Therefore, this 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 teen'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, the lack of evidence submitted by the treating orthodontist to support the presence of severe deviations, and the teen's testimony indicating the top right tooth, possibly tooth #6 as tooth # 6 is located in the right upper arch, is erupting, not impacted. The Preliminary Handicapping Malocclusion Assessment Record scores by the treating orthodontist and the two CTDHP dental consultants fell below 26 points.

CTDHP correctly determined the teen 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 teen'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 teen'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 teen scored less than twenty-six

points under the Salzmann Handicapping Malocclusion Index and the teen does not meet the medical necessity criteria for orthodontic services, in accordance with state statute and state regulations.

On [REDACTED] 2022, CTDHP correctly issued the Appellant a notice of action denying the treating orthodontist's request for prior authorization to complete orthodontic treatment for the teen 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.