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

[redacted] **2023**
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # 205269

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2022, BeneCare Dental Plans ("BeneCare") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of orthodontia services. The notice indicated that the severity of his malocclusion did not meet the requirements in state law to approve the proposed treatment.

On [redacted], 2022, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On [redacted] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2023.

On [redacted] 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 by telephone.

The following individuals were present at the hearing:

[redacted], the Appellant
Kate Nadeau, BeneCare's Representative
Dr. Stanley Wolfe, Benecare's Dental Consultant
Scott Zuckerman, Hearing Officer

The hearing record remained open at the request of the Appellant for the submission of a letter from his treatment provider. On [redacted] 2023, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for the Appellant's child's orthodontic services was in accordance with state law.

FINDINGS OF FACT

1. The Appellant (D.O.B. [redacted] is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)

2. Benecare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)

3. [redacted] is the Appellant's treating orthodontist (the "treating orthodontist"). (Hearing Summary, Exhibit 1: Orthodontia Services Claim Form)

4. On [redacted], 2022, the treating orthodontist requested prior authorization to complete orthodontic services for the Appellant. (Hearing Summary, Ex. 1: Claim form)

5. On [redacted], 2022, the treating orthodontist submitted to Benecare, a Preliminary Handicapping Malocclusion Assessment Record with a score of 21 points, models and panorex films of the Appellant's mouth. The treating orthodontist also found no presence of severe deviations affecting the mouth and underlying structures. (Ex. 2: Malocclusion Assessment Record, [redacted] 2022)

6. On [redacted] 2022, Dr. Vincent Fazzino, DMD, BeneCare's orthodontic dental consultant, independently reviewed the Appellant's models and panoramic radiographs, and arrived at a score of 15 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino also found no presence of severe deviations affecting the mouth and underlying structures. (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record, [redacted] 2022)

7. On [redacted] 2022, Benecare denied the treating orthodontist's request for prior authorization for orthodontic services because the Appellant's score was less than 26 points on the Malocclusion Assessment Record, his teeth were

not crooked enough to qualify for braces and the teeth currently posed no threat to the jawbone or the attached soft tissue. (Ex.4: Notice of Action for Denied Services or Goods, [redacted] 2022)

8. On [redacted] 2022, Dr. Geoffrey Drawbridge, DDS, BeneCare's orthodontic dental consultant, independently reviewed the Appellant's models and panoramic radiographs, and arrived at a score of 19 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge also found no presence of severe deviations affecting the mouth and underlying structures. (Ex.6: Preliminary Handicapping Malocclusion Assessment Record, [redacted] 2022)

9. On [redacted] 2022, BeneCare notified the Appellant that orthodontic treatment was not medically necessary. (Ex.7: Letter Regarding Orthodontic Services, [redacted] 2022)

10. On [redacted] 2023, OLCRAH held an administrative hearing. (Hearing Record)

11. On [redacted] 2023, the Appellant provided a letter from his therapist discussing the Appellant's feeling anxious and insecure over his appearance due to dental issues. He stated, [redacted] has discussed on many occasions the negative feelings he experiences when he is out in public, especially in school ([redacted]). It is my professional opinion that correcting [redacted] dental issues would greatly improve his negative feelings of anxiety and depression." (Exhibit 9: Letter from [redacted] dated [redacted], 2022)

12. On [redacted] 2023, Dr. Geoffrey Drawbridge, DDS, Benecare's orthodontic dental consultant reviewed the letter from the Appellant's psychiatric clinician. Dr. Drawbridge stated, "Response to letter per claim for [redacted] from psychiatric clinician: Based upon this letter of 12/22/22 and a review of the Assessment record, approval for treatment is recommended. Agenesis of right and lower central incisors contributes to excessive spacing. In addition to existing spacing of maxillary anteriors, the focus of the patient's attentions could be considerable. Restorative treatment alone would not seem capable of addressing all possible concerns." (Exhibit 10: Response from Dr. Drawbridge, [redacted], 2023)

13. The Appellant is not being treated by a qualified psychiatrist or psychologist for related mental, emotional or behavior problems, disturbances, or dysfunctions. (Appellant's testimony)

14. The Appellant does not have problems chewing or swallowing food. (Appellant's testimony)

15. 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] 2022. Therefore, this decision is due no later than [redacted] 2023. However, the hearing record remained open until [redacted] 2023, at the request of the Appellant which caused a 14-day delay. Because this 14-day delay resulted from the Appellant's request, this decision is not due until [redacted] 2023, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]

2. State regulations provide that orthodontic services for services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Conn. Agencies Regs. §17-134d-35(a)

3. State statute 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. [Conn. Gen. Stat. § 17b-259b]

4. 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 that 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. Statutes § 17b-282e]

5. State regulations provide that 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 that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems. [Conn. Agencies Regs. § 17-134d-35(e)(2)]

6. 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.

   In the Appellant's case, the study models submitted for prior authorization do not show occlusal deviations and do not meet the requirement of a 26-point score on the preliminary assessment.

   In the Appellant's case, a licensed psychiatrist or licensed psychologist who has limited his or her practice to child psychiatry or child psychology has not recommended that the child receive

orthodontic treatment to significantly ameliorate her child's mental, emotional, and or behavior problems, disturbances or dysfunctions.

On [redacted] 2023, after a review of the assessment record and the letter from the Appellant's clinician, Benecare's consulting orthodontist recommended approval of orthodontic treatment for the Appellant.

DECISION

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

ORDER

1. Benecare must approve orthodontic treatment based on Benecare's dental consultant's [redacted] 2023, review of the assessment record and clinician letter as the Appellant has met the criteria for medical necessity.

2. Compliance is due 14 days from the date of this decision and will consist of a letter of approval for orthodontic treatment.

Scott Zuckerman
Scott Zuckerman
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.