

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

[REDACTED]  
SIGNATURE CONFIRMATION

CASE ID # [REDACTED]  
CLIENT ID # [REDACTED]  
REQUEST # 205283

NOTICE OF DECISION  
PARTY

[REDACTED]  
[REDACTED]  
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] [REDACTED], the CT Dental Health Partnership (“CTDHP”) sent [REDACTED] (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of interceptive orthodontic treatment for [REDACTED], her minor child (the “child”), indicating that the proposed orthodontia treatment is not medically necessary.

On [REDACTED] the Appellant requested an administrative hearing to contest the denial of prior authorization of interceptive orthodontic treatment for her child.

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for [REDACTED]

On [REDACTED], in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing telephonically.

The following individuals participated in the hearing:

██████████, Appellant  
Rosario Monteza, CTDHP Representative  
Dr. Vincent Fazzino, DMD, CTDHP Dental Consultant  
Sara Hart, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for the child was correct and in accordance with state law.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child, ██████████ (the "child"). (*Hearing Record*)
2. The child is █ years old (DOB ██████████) and is a participant in the Medicaid program as administered by the Department of Social Services (the "Department"). (*Exhibit 1; Prior Authorization Claim form, Hearing Record*)
3. CTDHP, also known as BeneCare Dental Plans, is the Department's contractor for reviewing dental providers' requests for prior authorization of interceptive orthodontic treatment. (*Hearing Record*)
4. ██████████ is the child's treating orthodontist (the "treating orthodontist"). (*Exhibit 1, Hearing Summary*)
5. On ██████████, the treating orthodontist requested prior authorization to complete interceptive orthodontic services for the child. (*Exhibit 1*)
6. On ██████████, CTDHP received a Preliminary Handicapping Malocclusion Assessment Record from the treating orthodontist with a score of 10 points. The treating orthodontist also included dental models, photographs, and x-rays of the child's mouth. The treating provider commented: "Patient needs phase one treatment – bite ramps #24 and #25." (*Exhibit 2: Preliminary Handicapping Assessment ██████████; Hearing Summary*)
7. On ██████████, Dr. Benson Monastersky, DMD, CTDHP's orthodontic dental consultant, independently reviewed the child's dental models, photographs, and x-rays of her teeth. The doctor commented: "Does not meet Phase One treatment guidelines. There is no supporting evidence that patient is Class III" Dr.

Monastersky did not indicate the presence of other severe deviations affecting the mouth and underlying structures. Dr. Monastersky's decision was that interceptive orthodontic treatment is not medically necessary for the child. (*Exhibit 3: Dr. Monastersky's Assessment* [REDACTED]; *Hearing Summary*)

8. On [REDACTED] CTDHP issued a notice to the Appellant which denied the treating provider's request for prior authorization for interceptive orthodontic treatment for the minor child because no evidence was provided to prove that the requested service met the medical necessity care conditions set by the Department. (*Exhibit 4: Notice of Action for Denied Services or Goods* [REDACTED])
9. On [REDACTED], the Appellant requested an administrative hearing to contest the denial of the child's orthodontic treatment. The Appellant commented, "These services are a medical necessity for my daughter. The underbite causes her to have difficulties w/biting & chewing. Also she is a mouth breather because of this, which causes severe dry mouth and bad breath. Both her dentist and orthodontist believes her condition can lead to requiring oral surgery in the future if not treated while her bones are still forming." (*Exhibit 5: Hearing Request*)
10. On [REDACTED], the Appellant provided a referral and panoramic X-ray imaging taken on [REDACTED], from the child's general dentist, [REDACTED], DDS. (*Exhibit 6: Referral Form*)
11. On [REDACTED], Dr. Vincent Fazzino, DMD, a dental consultant for CTDHP, independently reviewed the child's models, photographs, and x-rays. Dr. Fazzino commented, "Case does not meet criteria for Phase I treatment." Dr. Fazzino determined that interceptive orthodontic treatment is not medically necessary as no presence was found of any deviations affecting the child's mouth or underlying structures. (*Exhibit 7: Dr. Fazzino's Assessment* [REDACTED]; *Hearing Summary*)
12. The Child is not being treated by a licensed child psychiatrist or child psychologist for mental, emotional, or behavioral issues directly related to her teeth. (*Appellant's Testimony*)
13. Interceptive orthodontic treatment, also known as Phase One treatment, is based on the existence of a condition of sufficient severity limited to deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet of more than 9 millimeters, open bite, and anterior impacted tooth. The child does not meet any of the required criteria. (*Dr. Fazzino's testimony*)
14. On [REDACTED], CTDHP issued a notice to the Appellant which again denied the treating provider's request for prior authorization for interceptive orthodontic treatment for the minor child because there was no presence found of any deviations affecting the mouth or underlying structures, and there was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child's teeth. (*Exhibit 8: Determination Letter*)

15. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires the agency to issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED]; therefore, this decision is due no later than [REDACTED]

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17-134d-35(a) of the Regulations of Connecticut State Agencies provide that orthodontic services 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.
3. 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.

Section 17b-259b(b) of the Connecticut General Statutes provides that 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.

**CTDHP correctly determined that the x-rays and models submitted by the**

treating provider do not support the presence of any deviations affecting the mouth or underlying structures as required by state regulations for the authorization of interceptive orthodontia treatment.

BeneCare correctly determined that the child's malocclusion did not meet the criteria for approval of interceptive orthodontic treatment and correctly denied prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services as defined by state statute and regulation.

4. Section 17b-259b(c) of the Connecticut General Statutes provides that 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.

**CTDHP correctly issued a Notice of Action for Denied Services or Goods on [REDACTED], and a Determination Letter upholding the denial on [REDACTED]**

**DECISION**

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

  
\_\_\_\_\_  
Sara Hart  
Hearing Officer

### **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.