

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 # 207704

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2022, Connecticut Dental Health Partnership (“CTDHP”) sent ██████████ (“minor child”) a notice of action denying a request for prior authorization of 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 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.

The following individuals called in for the hearing:

████████████████████ Appellant
Cindy Ramos, CTDHP Representative
Dr. Vincent Fazzino, DMD, CTDHP Dental Consultant
Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence from the Appellant and a review of such evidence by CTDHP. On ██████████ 2023, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's denial of prior authorization through the Medicaid program for the minor child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child. (Hearing Record)
2. The minor child is ██████████ (██████ years old born on ██████████ ██████████) (Exhibit 1: Prior Authorization Claim Form, Exhibit 2: Preliminary Malocclusion Assessment Record, and Exhibit 5: Hearing Request)
3. The minor child 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. ██████████, (the "treating orthodontist") is the minor child's treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Claim Form and Exhibit 2: Preliminary Malocclusion Assessment Record)
6. On ██████████ 2022, CTDHP received a prior authorization request from the treating orthodontist to complete orthodontic services for the minor child. (Hearing Summary and Exhibit 1: Prior Authorization Claim Form)
7. On ██████████ 2022, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with a score listed as 27 points, models, panorex and photographs of the minor child. The treating orthodontist did not find the presence of other severe deviations affecting the mouth and underlying structures. (Hearing Summary and Exhibit 2: Preliminary Malocclusion Assessment Record)
8. On ██████████ 2022, Dr. Vincent Fazzino, DMD, CTDHP's orthodontic dental consultant, independently reviewed the minor child's models, panorex, and photographs and arrived at a score of 20 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino did not find evidence of severe irregular placement of the teeth within the dental

arches and no irregular growth or development of the jawbones. Dr. Fazzino found no evidence presented stating the presence of emotional issues directly related to the minor child's dental situation and determined that orthodontia services were not medically necessary. (Hearing Summary, Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record)

9. On [REDACTED] [REDACTED] 2022, 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 for the reason that 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 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 will significantly improve such problems, disturbances or dysfunctions. (Exhibit 4: Notice of Action for Denied Services or Goods)
10. On [REDACTED] [REDACTED] 2022, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
11. On [REDACTED] [REDACTED] 2023, Dr. Geoffrey Drawbridge, DDS, a CTDHP dental consultant, independently reviewed the minor child's models and panorex, and arrived at a score of 14 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge 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. Drawbridge determined that orthodontia services were not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
12. On [REDACTED] [REDACTED] 2023, CTDHP notified the Appellant that the request for orthodontic services was denied for the following reasons: the minor child's score of 14 points was less than the 26 points needed for coverage, a 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 related to the condition of the minor child's teeth. (Exhibit 7: Determination Letter)
13. The treating orthodontist scored teeth 23, 24, 25, and 26 as overbite, Dr. Fazzino scored tooth 25 in overbite, and Dr. Drawbridge did not list any teeth in overbite. Under the Salzmann Scale, a tooth in overbite must have

physical contact with the lower incisor greater than 3 millimeters in order to score on the Preliminary Handicapping Malocclusion Assessment Record. A tooth may be in overbite but may not meet the scoring criteria under the Salzman Scale. (Dental Consultant's Testimony)

14. At the age of [REDACTED], the minor child received a diagnosis which included anxiety, depression, and attention deficit hyperactivity disorder from a psychiatrist. The minor child has been hospitalized in the past due to her diagnoses and currently participates in intensive home based services program working with a clinical social worker under the program. The minor child's medication administration is regulated by her primary care physician. The minor child's coping strategies at times of increased anxiety, stress and concentration include teeth clenching and grinding and skin picking. (Appellant's Testimony)
15. The minor child has been diagnosed with bruxism, teeth grinding, by her pediatric dentist. The child grinds her teeth both at night and during the day. Dental caps have been placed on the minor child's back teeth to reduce the impact of grinding on the minor child's dental health. The minor child still has deciduous teeth and due to this and the cost of a night guard, the minor child's pediatric dentist is waiting before prescribing a night guard to prevent wear on her adult teeth. The minor child's teeth misalignment contributes to the impulse to grind her teeth. (Appellant's Testimony)
16. Bruxism is a condition which an individual grind or clench their teeth, most often at night. A dentist diagnoses bruxism upon examination of a patient's teeth which show evidence of excessive wear facets. The treating orthodontist's Preliminary Malocclusion Assessment Record is void of any mention of bruxism. Treatment for bruxism can include a mouth guard to be worn at night. (Dental Consultant's Testimony)
17. On [REDACTED] 2023, CTDHP received a letter from the minor child's pediatrician, [REDACTED] (the "Pediatrician"). The pediatrician writes, "[The minor child] has significant anxiety and grinds her teeth. She would benefit from orthodontic intervention." (Exhibit A: Pediatrician Letter)
18. On [REDACTED] 2023, CTCHP received a clinical summary from [REDACTED] LCSW, Senior Clinician (the "Senior Clinician") at [REDACTED] listing the minor child's active problems as of [REDACTED] 2023 as: Post-traumatic stress disorder, parent-biological child conflict, sibling relational problem, and generalized anxiety disorder. The clinical summary listed unspecified depressive disorder as inactive. (Exhibit B: Clinical Summary)
19. On [REDACTED] 2023, Dr. Geoffrey Drawbridge, DDS, MS reviewed the Pediatrician's letter and the clinical summary from the Senior Clinician. Dr.

Drawbridge determined the additional documentation does not meet the requirements under state regulations for the approval of orthodontics for the minor child. State regulations require substantive documentation from a child psychiatrist or psychologist supporting the dental discrepancy is directly contributing to the child's emotional problem. (Exhibit 10: Denial Notice)

20. The Appellant seeks orthodontic treatment for the minor child to correctly align her teeth and reduce the minor child's urge to grind. (Appellant's Testimony)
21. 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. However, the close of the hearing record, which had been anticipated to close on [REDACTED] [REDACTED] 2023, did not close until [REDACTED] [REDACTED] 2023 to allow an opportunity for the Appellant to submit additional evidence and CTDHP to review such evidence. Because this 17-day delay in the close of the hearing record arose from the Appellant's request, this final decision was 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.") provides as follows:

The Department of Social Services is 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 pertinent part as follows:

The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.

Conn. Gen. Stat. §17b-262

3. Regulations of the Connecticut State Agencies ("Regs., Conn. State Agencies") § 17-134d-35(a) provide as follows:

Orthodontic services will be paid for when (1) provided by a qualified dentist and (2) deemed medically necessary as described in these regulations.

4. State statute provides as follows:

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

5. "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)
6. "Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested 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)
7. State statute provides as follows:

The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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

State regulation provides as follows:

If the total score is less than [twenty-six] 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.

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

8. State regulation provides as follows:

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;
- 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. Stats. § 17b-259b(c)

10. CTDHP correctly determined that the minor child's malocclusion did not meet the criteria for severity, or 26 points as established in state statute and that there was no presence of severe deviations affecting the mouth and underlying structures as indicated on the Preliminary Handicapping Malocclusion Assessment Records.

CTDHP was correct to find that the minor child's malocclusion did not meet the criteria for medically necessary as established in state statutes and state regulations. Although the letter from the pediatrician and the clinical summary documents the minor child's mental and emotional diagnosis as defined by the Diagnostic Statistical Manual of the American Psychiatric Association, the letters do not meet the stringent criteria under Connecticut regulations which specifically states the Department will 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. Additionally, the evaluation must document how the dentofacial deformity is directly related to the minor child's mental, emotional, and/or behavior problems and that orthodontic treatment is necessary. Neither the pediatrician's letter nor the lead clinician's clinical summary meet the state criterion to authorize orthodontia treatment for the minor child.

CTDHP was correct to deny prior authorization because the minor child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.

On [REDACTED] 2023, CTDHP correctly issued the Appellant a notice of action upholding their [REDACTED] 2022 denial of orthodontia treatment for the minor child.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

PC: Magdalena Carter, CTDHP, P.O. Box 486 Farmington, CT 06032
Rita LaRosa, CTDHP, P.O. Box 486 Farmington, CT 06032

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.