

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

██████████ 2023  
Signature Confirmation

Case ID # ██████████  
Client ID # ██████████  
Request # 211049

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
████████████████████

**PROCEDURAL BACKGROUND**

On ██████████ 2022, Connecticut Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (“the Department”), sent ██████████ (“the child”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontic services as not medically necessary.

On ██████████ ██████████ 2023, ██████████ ██████████ (“the Appellant”) requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontic services.

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

On ██████████, 2023, the Appellant requested to reschedule. On ██████████, 2023, OLCRAH issued a notice to the Appellant rescheduling the administrative hearing for ██████████ 2023.

On ██████████ 2023, the Appellant requested to reschedule. On ██████████, 2023, OLCRAH issued a notice to the Appellant rescheduling the administrative hearing for ██████████ 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 hearing by phone.

The following individuals were present at the hearing:

[REDACTED], Appellant  
Cindy Ramos, CTDHP's Representative  
Dr. Greg Johnson, DMD, CTDHP's Dental Consultant  
Kristin Haggan, Fair Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether CTDHP correctly denied the Appellant's request for orthodontic services for the child.

### **FINDINGS OF FACT**

1. The Appellant is the child's mother. (*Hearing Record*)
2. The child is [REDACTED] years old ([REDACTED]) and is a participant in the Medicaid program, which the Department administers. (*Hearing Record*)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (*Hearing Record*)
4. [REDACTED] [REDACTED] [REDACTED] is the child's treating orthodontist (the "treating orthodontist"). (*Hearing Summary, Exhibit 1: Dental Claim Form*)
5. In [REDACTED], an orthodontist first evaluated the child and determined that he needed orthodontic treatment; however, CTDHP denied the treatment. (*Appellant's Testimony*)
6. In [REDACTED] 2022, the child's tooth was causing him a great deal of pain. The child's mother brought him to the Emergency Room, and he was then referred to an orthodontist. The orthodontist stated that the child needed braces. (*Appellant's Testimony*)
7. On [REDACTED] 2022, the treating orthodontist submitted a prior authorization claim to CTDHP requesting orthodontic services for the child, as well as a Preliminary Handicapping Malocclusion Assessment Record with a score of 26 points, models, and x-rays of the child's mouth. The treating orthodontist did not indicate that the child presented with other severe deviations affecting

his mouth and underlying structures. (*Hearing Summary, Exhibit 1, Exhibit 2: Malocclusion Assessment Record* ██████████)

8. On ██████████ 2022, CTDHP received the prior authorization claim form, the Preliminary Handicapping Malocclusion Assessment Record, x-rays, and models from the treating orthodontist. Dr. Robert Gange, DDS, CTDHP's orthodontic dental consultant, independently reviewed the child's models and x-rays and arrived at a score of 12 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange found no presence of severe deviations affecting the child's mouth and underlying structures. (*Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record* ██████████)
9. On ██████████, 2022, CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services because the child's score was less than 26 points on the Malocclusion Assessment Record. CTDHP issued an NOA stating that the child's teeth were not crooked enough to qualify for braces, and there were no severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures. The NOA also stated that there is no evidence that the child has had a diagnostic evaluation completed by a licensed child psychologist or a licensed child psychiatrist. (*Exhibit 4: Notice of Action for Denied Services or Goods* ██████████)
10. On ██████████, 2023, Dr. Vincent Fazzino, DMD, CTDHP's orthodontic dental consultant, conducted an appeal review. Dr. Fazzino reviewed the child's models and x-rays and arrived at a score of 14 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the child's mouth and underlying structures. (*Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record* ██████████)
11. On ██████████ 2023, CTDHP issued a letter notifying the Appellant that an appeal review was conducted and the request for approval of braces was denied because the child's score was less than 26 points on the Malocclusion Assessment Record, 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 teeth. (*Exhibit 7: Appeal Review Letter* ██████████)
12. On ██████████ 2023, the Appellant emailed new x-rays of the child's teeth to CTDHP for review. (*Exhibit 8: Additional X-rays*)
13. On ██████████ 2023, Dr. Fazzino reviewed the additional x-rays, and he again denied the request for prior authorization for orthodontic treatment as it is not medically necessary. Dr. Fazzino completed just the bottom portion of the

Preliminary Handicapping Malocclusion Assessment Record, and commented on the form, "Additional x-rays submitted does not alter the scoring". (*Hearing Summary, Exhibit 10: Preliminary Handicapping Malocclusion Assessment Record* [REDACTED]).

14. On [REDACTED] 2023, the orthodontist from [REDACTED] reevaluated the child's teeth and his opinion was again that the child needs orthodontic treatment. The orthodontist refused to provide a written statement of his opinion to the Appellant. (*Appellant's Testimony*)

15. On [REDACTED], 2023, the treating orthodontist submitted a letter to CTDHP for review. The letter, dated [REDACTED], 2022, was sent by [REDACTED] and advised of the child's medical diagnosis of [REDACTED] and the issues he has with medications and anesthesia. The letter requested that the child's care be transferred to [REDACTED]. On [REDACTED], 2023, the Appellant submitted pictures of the child's teeth to CTDHP, as well as progress notes, and a letter dated [REDACTED] 2023, from [REDACTED]. (*Exhibit 11: Picture of Child's Teeth, Exhibit 12: Picture of Child's Teeth, Exhibit 13: Letter from [REDACTED] dated [REDACTED], Exhibit 14: Letter from [REDACTED] dated [REDACTED], Exhibit 15: Progress Notes, Exhibit 16: Progress Notes*)

16. On [REDACTED] 2023, Dr. Fazzino reviewed the child's models, x-rays, and the newly submitted documents and he arrived at a score of 14 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no presence of severe deviations affecting the child's mouth and underlying structures and commented on the form "The recent letter received from [REDACTED] dated [REDACTED]-22 does not alter the scoring. The additional information submitted does not alter the scoring also". (*Exhibit 18: Preliminary Handicapping Malocclusion Assessment Record* [REDACTED])

17. Ectopic eruption of the child's maxillary right canine tooth has led to severe resorption of tooth #7. Tooth #7 has a hole in it and the tooth may need to be removed. The child has an appointment scheduled with a specialist to determine if the tooth will be removed. The child does not want to have his tooth removed. (*Appellant's Testimony, Exhibit 13*)

18. The child has been diagnosed with [REDACTED] (*Appellant's Testimony*)

19. The child does not smile often, and he frequently covers his mouth because he is embarrassed about his teeth. (*Appellant's Testimony*)

20. The child has pain with eating and closing his mouth. (*Appellant's Testimony*)

21. The child has not been diagnosed by a doctor with any severe deviations affecting his oral face structures. (*Appellant's Testimony*)
22. The child is not being treated by a licensed child psychiatrist or a licensed child psychologist for any mental, emotional, or behavioral problems related to his teeth. (*Appellant's testimony*)
23. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires the agency issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2023. The Appellant requested to reschedule the administrative hearing on [REDACTED], 2023, and again on [REDACTED] 2023; therefore, the closing of the record is extended by [REDACTED] days. This decision is due no later than [REDACTED] 2023. (*Hearing Record*)

### **CONCLUSIONS OF LAW**

1. Section 17b-262 of the Connecticut General Statutes provides the Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.
2. Section 17-134d-35(a) of the Regulations of Connecticut State Agencies provides that orthodontic services provided for individuals under 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-282e of the Connecticut General Statutes provides that 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.

Section 17-134d-35(e)(2) of the Regulations of Connecticut State Agencies provides 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.

Section 17-134d-35 (f) (1) of the Regulations of Connecticut State Agencies 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/ she may proceed with the diagnostic assessment.

In the Appellant's case, the child's 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 Handicapping Malocclusion 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 behavioral problems, disturbances, or dysfunctions.

CTDHP correctly denied prior authorization for the Appellant's child's request for orthodontic services as not medically necessary in accordance with state statutes and regulations.

### **DECISION**

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

  
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Kristin Haggan  
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.