

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

Client ID # ██████████
Case ID # ██████████
Request # 211683

NOTICE OF DECISION
PARTY

██████████
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PROCEDURAL BACKGROUND

On ██████████ 2023, Connecticut Dental Health Partnership/BeneCare (“CTDHP”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of orthodontia services for the Appellant’s child, ██████████ (“the child”). The NOA informed the Appellant that the interceptive orthodontic treatment for the child did not meet the requirements set in state statutes and regulations for medical necessity.

On ██████████ 2023, the Appellant requested an Administrative Hearing to contest the Department’s denial of the prior authorization for interceptive orthodontic treatment.

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

On ██████████ 2023, the Appellant contacted the OLCRAH and requested for the Administrative Hearing to be rescheduled.

On ██████████ 2023, the OLCRAH issued a notice rescheduling the Administrative Hearing for ██████████ 2023.

On ██████████ 2023, the Appellant contacted the OLCRAH and requested for the Administrative Hearing to be rescheduled.

On [REDACTED] 2023, the OLCRAH issued a notice rescheduling 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 Hearing telephonically.

The following individuals participated in the hearing by telephone:

[REDACTED], Appellant
Rosario Monteza, CTDHP Representative
Dr. [REDACTED], CTDHP Dental Consultant
Jessica Gulianello, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The child (D.O.B. [REDACTED]) is a participant in the Medicaid program, as administered by the Department of Social Services through CTDHP. (*Hearing Record, Exhibit 1: Dental Claim Form*)
2. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (*Hearing Record*)
3. [REDACTED] is the child's treating orthodontist (the "treating orthodontist"). (*Hearing Record, Exhibit 1: Dental Claim Form*)
4. On [REDACTED] 2023, the treating orthodontist requested prior authorization to complete interceptive orthodontic services for the child. The treating orthodontist commented, "Client has no missing teeth". (*Hearing Record, Exhibit 1: Dental Claim Form*)
5. On [REDACTED] 2023, CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record with models and x-rays of the child's mouth. On the Assessment Record, the treating orthodontist checked the box indicating that the child meets the criteria for approval of interceptive orthodontic treatment based on the presence of Gingival Recession. (*Hearing Record, Exhibit 2: Malocclusion Assessment Record – signed [REDACTED]/2023*)

6. The treating orthodontist did not complete the point score sections on the Preliminary Handicapping Malocclusion Assessment Record. (Hearing Record, *Exhibit 2: Malocclusion Assessment Record – signed [REDACTED]/2023, [REDACTED] Testimony*)
7. The Salzmann Preliminary Malocclusion Assessment Record defines the criteria for Gingival Recession as follows, “Anterior crossbite which causes gingival recession of 2 to 3 millimeters as compared to adjoining teeth as evidenced on study models”. (Hearing Record, *Exhibit 2: Malocclusion Assessment Record – signed [REDACTED]/2023*)
8. On [REDACTED] 2023, Dr. [REDACTED], DDS, CTDHP’s orthodontic dental consultant, independently reviewed the models, and x-rays of the child’s mouth and arrived at a score of 0 points on the Preliminary Handicapping Malocclusion Assessment Record. Dr. [REDACTED] found no presence of severe deviations affecting the mouth and underlying structures and commented, “Does not meet Phase One treatment guidelines. Provider Comments Scored. No evidence of gingival recession”. There was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child’s teeth. (Hearing Summary, *Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record - signed [REDACTED]/2023*)
9. On [REDACTED] 2023, CTDHP denied the treating orthodontist’s request for prior authorization for interceptive orthodontic treatment services as not medically necessary because based on the models and x-rays there is no evidence of severe deviations affecting the child’s mouth or underlying structures which, if left untreated, would cause irreversible damage. (Hearing Summary, *Exhibit 4: Notice of Action for Denied Services or Goods, [REDACTED]/2023*)
10. On [REDACTED] 2023, the Appellant requested an Administrative Hearing to contest the denial of interceptive orthodontic treatment. (*Exhibit 5: Hearing Request - signed [REDACTED]/2023*)
11. On [REDACTED] 2023, Dr. [REDACTED], DMD, a CTDHP dental consultant, independently reviewed the models, and x-rays of the child’s mouth. Dr. [REDACTED] found no presence of severe deviations affecting the mouth and underlying structures and commented, “Case does not meet the criteria for Phase 1 treatment (TX).” There was no evidence presented of any treatment by a licensed psychiatrist or psychologist related to the condition of the child’s teeth. (Hearing Summary, *Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, signed [REDACTED]/2023*)
12. On [REDACTED], 2023, CTDHP issued an Appeal Review Notice upholding the denial. (Hearing Record, *Exhibit 7: Determination Letter [REDACTED]/2023*)

13. The child is not currently being treated by a qualified psychiatrist or psychologist for related mental emotional or behavioral problems, disturbances, or dysfunctions specifically related to his teeth. (*Hearing Record*)
14. The issuance of this decision is timely under section 17b-61(a) of the Connecticut General Statutes, 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], 2023. This decision, therefore, was due no later than [REDACTED] 2023. The hearing, however, which was originally scheduled for [REDACTED] 2023, was rescheduled for [REDACTED] 2023, at the request of the Appellant, which caused a [REDACTED]-day delay. The hearing, which was rescheduled for [REDACTED] 2023, was again rescheduled for [REDACTED] 2023, at the request of the Appellant, which caused an additional [REDACTED]-day delay. Because this [REDACTED]-day ([REDACTED]) resulted from the Appellant's requests, this decision is not due until [REDACTED], 2023, and is therefore timely. (*Hearing Record*)

CONCLUSIONS OF LAW

1. Section 17b-2(8) 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. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
3. Connecticut Agencies Regulations §17-134d-35(a) provides that orthodontic 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.
4. Connecticut General Statutes §17b-259b 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.

5. Connecticut Agencies Regulations §17-134d-35(b)(3) provides 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.
6. Connecticut Agencies Regulations §17-134d-35(f)(1) provides 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.
7. Sec. 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 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.

CTDHP correctly determined that the child's dental models and x-rays do not meet the requirement of a twenty-six (26) point score on the Salzmann Preliminary Handicapping Malocclusion Assessment Record.

Furthermore, the Salzmann Preliminary Malocclusion Assessment Record states an anterior crossbite that causes a Gingival Recession of 2 to 3 millimeters as compared to adjoining teeth must be evidenced on study models to meet the severe deviation criteria for approval of interceptive Orthodontic treatment. CTDHP correctly reviewed the study models and x-rays of the child's mouth to evaluate the presence of gingival recession. The two CTDHP Orthodontists both independently agreed that the records

submitted by the treating Orthodontist do not meet the aforementioned treatment guidelines. Therefore, CTDHP correctly determined that interceptive orthodontic treatment is not medically necessary.

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

Because the Appellant did not provide evidence from a licensed child psychologist or licensed child psychiatrist indicating the child suffered from the presence of severe mental, emotional, and/or behavioral problems, disturbances, or dysfunctions caused by his dental deformity, orthodontic services are determined to not be medically necessary.

9. 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] 2023, and a Determination Letter upholding the denial on [REDACTED] 2023.

DECISION

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

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: 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.