

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

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

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Request #: 211951

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2023, BeneCare Dental Plans (“BeneCare”) administered by Connecticut Dental Health Partnership (“CTDHP”), sent ██████████ (“the child”) a Notice of Action (“NOA”) denying a request for prior authorization of braces, indicating that the severity of the child’s malocclusion did not meet the requirements in state law to approve the proposed treatment and braces are not medically necessary.

On ██████████, 2023, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

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, 17-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing.

The following individuals participated in the hearing:

██████████, Appellant
Rosario Monteza, CTDHP’s Representative
Dr. Benson Monastersky, CTDHP’s Dental Consultant
Amy MacDonough, Hearing Officer

On [REDACTED] 2023, the undersigned reopened the hearing record for clarification of a dental term stated by the treating orthodontist. On [REDACTED] 2023, CTDHP provided a response to this request. The hearing record remained open until [REDACTED] 2023, for the Appellant to respond to the information CTDHP submitted. As of close of business [REDACTED] 2023, the Appellant had not provided comment on the additional information provided by CTDHP, and the hearing record closed accordingly.

STATEMENT OF THE ISSUE

The issue is whether the CTDHP correctly denied the prior authorization request for the child's orthodontic services as not medically necessary.

FINDINGS OF FACT

1. The child is a [REDACTED] [Date of Birth: [REDACTED]] participant in the Medicaid program, as administered by the Department of Social Services. (*Appellant's Testimony; Hearing Record*)
2. The Appellant is the parent of the child. (*Appellant's Testimony*)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatments. (*Hearing Record*)
4. [REDACTED] is the child's treating orthodontist (the "treating orthodontist"). (*Hearing Record; Exhibit 1: Prior Authorization Claim Form*)
5. On [REDACTED] 2023, the treating orthodontist requested a prior authorization for orthodontic services for the child. They submitted a Malocclusion Severity Assessment record with a score of 16 points. The treating orthodontist noted the following, "Fremutus present on teeth #8 and #9 due to severe overbite". (*Hearing Record; Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record*)
6. The treating orthodontist did not complete any boxes under Section G on the Preliminary Handicapping Malocclusion Assessment Record regarding "Other Deviations" affecting the mouth and underlying structures. The treating orthodontist did not answer any of the questions related to the other "Criteria for Approval of Interceptive Orthodontic Treatment". The treating orthodontist did not answer the question regarding the types of "Record Submitted". (*Exhibit 2*)
7. On [REDACTED] 2023, Dr. Benson Monastersky, DMD, CTDHP's orthodontic dental consultant, independently reviewed the child's x-rays and models and arrived at the score of 14 points on the Malocclusion Severity Assessment Record. Dr. Monastersky found no evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jaw bones.

There was no evidence presented of emotional issues directly related to her dental condition. Dr. Monastersky noted the following, "Overbite is not deep enough to score". (*Hearing Record; Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record*)

8. On [REDACTED] 2023, CTDHP issued a NOA to the child stating the request for approval of orthodontia services was denied because the score of 14 points was less than the required 26 points and there are no additional substantial information about the presence of severe deviation affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures; and there is no evidence that a diagnostic evaluation has been done by a licensed child psychologist or licensed child psychiatrist indicating that (1) the child's dental condition is related to the presence of severe mental, emotional and/or behavior problems, disturbances or dysfunctions, as defined in the current edition of the Diagnostic Statistical Manual; and (2) orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (*Exhibit 4: Notice of Action*)
9. On [REDACTED] 2023, the Appellant submitted a request for an administrative hearing. (*Exhibit 5: Appeal and Administrative Hearing Request Form*)
10. On [REDACTED] 2023, Dr. Vincent Fazzino, DMD, CTDHP's dental consultant, conducted an appeal review. Dr. Fazzino independently reviewed the child's records and arrived at the score of 16 points on the Preliminary Handicapping Malocclusion Assessment Record. He found no evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of her jaw bones. There was no evidence presented stating the presence of emotional issues directly related to her dental situation. Dr. Fazzino commented, "Case does not meet criteria for approval". (*Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record*)
11. On [REDACTED] 2023, CTDHP issued a NOA to the Appellant upholding the previously denied request for braces for the child after an appeal review because the score of 16 points was less than the 26 points needed for approval, there was no presence found of any deviations affecting the mount 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 7: CTDHP Appeal review Determination Letter*)
12. The child is not currently being treated by a child psychiatrist or child psychologist for a severe mental, emotional, or behavioral problem specifically related to her teeth. (*Appellant's Testimony*)
13. On [REDACTED] 2023, the undersigned reopened the hearing record for CTDHP to clarify the dental term "Fremitus". CTDHP had until [REDACTED] 2023, to respond. (*Hearing Officer's Exhibit 1: Letter to CTDHP, [REDACTED] 2023*)

14. On [REDACTED] 2023, Dr. Fazzino, DMD, CTDHP's dental consultant, responded to the request for an explanation of the term "Fremitus" and provided an updated scoring sheet. Dr. Fazzino arrived at the same score of 16 points on the Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino commented, "Fremitus is movement of a tooth in Centric Occlusion. It is a premature contact in Functional occlusion. Patient does not have severe overbite to meet the criteria for approval. The malocclusion scoring is not changed". (*Exhibit 9: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/2023*)
15. The Appellant had until [REDACTED], 2023, to respond to CTDHP's response. The undersigned did not receive a response and closed the record on [REDACTED] 2023. (*Hearing Officer's Exhibit 1*)
16. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, which requires that the agency issue a decision within 90 days of the request for an Administrative Hearing. The Appellant requested an Administrative Hearing on [REDACTED], 2023. OLCRAH held the hearing on [REDACTED] 2023. After review of the record, the undersigned reopened the hearing record for additional information and on [REDACTED] 2023, the hearing record closed. With the additional 30 days, this decision is due no later than [REDACTED] 2023.

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.

The Department has the authority to administer and determine eligibility for the Medicaid program.

2. Section 17-134d-35(a) of Regulations of Connecticut State Agencies provides that orthodontic services provided for individuals less than 21 years of age will be paid for when (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations.

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

3. Section 17b-259b of the Connecticut General Statutes provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient less than 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.

Section 17-134d-35(e) of Regulation of Connecticut State Agencies provides when an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for the preliminary examination of the degree of malocclusion. (2) 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 be clear 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. (3) A recipient who becomes Medicaid eligible and is already receiving orthodontic treatment must demonstrate that the need for service requirements specified in subsections (e) (1) and (2) of these regulations were met before orthodontic treatment commenced, meaning that before the onset of treatment the recipient would have met the need for services requirements.

Section 17-134d-35(f) of Regulation of Connecticut State Agencies provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.

In this case, CTDHP correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.

When the total point score on the preliminary assessment is less than 26 points the CTDHP must consider whether certain other factors make orthodontic treatment medically necessary. One such factor is the presence of severe deviations affecting the oral-facial structures. CTDHP correctly determine that there was no evidence that the child had the presence of any such deviations.

CTDHP correctly determined that the child does not have the presence of severe mental, emotional, or behavioral problems, disturbances or dysfunctions directly related to her malocclusion, as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, which affects the child's daily functioning as per state statute.

CTDHP correctly denied prior authorization because the child's request for orthodontia services does not meet the medical necessity criteria in accordance with state statutes and regulations.

DECISION

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


Amy MacDonough
Fair 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.