

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

██████████, 2023
Signature confirmation

Case: ██████████
Client: ██████████
Request: 213868

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2023, the Connecticut Dental Health Partnership (“CTDHP”), the Department of Social Services’ contractor for reviewing dental claims, issued ██████████ (the “Appellant”) a *Notice of Action* denying prior authorization of a palate expander for ██████████ (the “child”), her minor child.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s hearing request.

On ██████████, 2023, the OLCRAH scheduled an 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, the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

██████████, Appellant
Kate Nadeau, CTDHP Representative
Benson Monastersky, D.M.D., CTDHP Witness
Eva Tar, Hearing Officer

The hearing officer extended the close of the hearing record to permit the Appellant to submit to CTDHP documentation from the dental providers who previously had examined the child.

As of [REDACTED] 2023, the Appellant had not submitted the documentation to CTDHP, and the hearing record closed.

STATEMENT OF ISSUE

The issue is whether CTDHP's denial of prior authorization for a palate expander is supported by State statute and regulation.

FINDINGS OF FACT

1. The child is [REDACTED] years old. (Appellant Testimony)
2. The child has dental coverage through HUSKY Health, a Medicaid program administered by the Department of Social Services. (CTDHP Exhibit 4)
3. CTDHP is the Department of Social Services' dental subcontractor. (CTDHP Representative Testimony)
4. The child has an "angry palate;" the child's palate is inflamed, and the child complains of pain. (Appellant Testimony)
5. On [REDACTED] 2023, CTDHP received a prior authorization request from [REDACTED] [REDACTED] (the "provider") for a palate expander. (CTDHP Exhibits 1 and 2)
6. Based on the child's age, prior authorization for the palate expander is associated with Phase I, or interceptive orthodontic treatment. (CTDHP Witness Testimony)
7. To meet Phase I requirements for prior authorization, the palate expander must be for the purpose of remedying a functional deviation; a functional deviation is a midline shift of at least a half lower incisor with unilateral crossbite. (CTDHP Witness Testimony)
8. The child does not have a functional deviation of a midline shift of at least a half lower incisor with unilateral crossbite. (CTDHP Exhibits 2, 3, and 7)
9. The child does not exhibit the presence of severe deviations affecting the mouth and underlying structures, that, if left untreated, would cause irreversible damage to the teeth and underlying structures. (CTDHP Exhibits 2, 3, and 7)
10. The child does not meet the Phase I requirements for prior authorization. (CTDHP Exhibits 2, 3, and 7)

11. On [REDACTED] 2023 and [REDACTED], 2023 CTDHP denied the provider's request for prior authorization of the child's orthodontic services. (CTDHP Exhibits 4 and 9)
12. Connecticut General Statutes § 17b-61 (a) provides: "The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60, ... , provided the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension...."

On [REDACTED] 2023, the OLCRAH received the Appellant's hearing request, and the close of the hearing record was extended by 14 days through [REDACTED] 2023. This hearing decision would have become due by no later than [REDACTED], 2023. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

The Department has the authority under State statute to administer the HUSKY Health/Medicaid program in Connecticut.

2. Section 17-134d-35 of the Regulations of Connecticut State Agencies addresses orthodontic services provided under the early and periodic screening, diagnosis, and treatment (EPSDT) program.

"Orthodontic services are limited to recipients under twenty-one (21) years of age." Conn. Agencies Regs. § 17-134d-35 (d).

"Orthodontic services will be paid for when (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations." Conn. Agencies Regs. § 17-134d-35 (a).

As a HUSKY Health participant under the age of 21 years, the child is subject to the program's rules as to when orthodontic services are authorized.

3. "All nonemergency dental services provided under the Department of Social Services' dental programs, as described in section 17b-282b, shall be subject to prior authorization...." Conn. Gen. Stat. 17b-282c (a).

Section 17-134d-35 (f) of the Regulations of Connecticut State Agencies addresses the prior authorization process with respect to orthodontic services provided under the EPSDT program.

“Prior authorization is required for orthodontic treatment for the initial appliance; first, second, and third year of active treatment; and for replacement of retainers....” Conn. Agencies Regs. § 17-134d-35 (f)(2).

CTDHP, as the Department’s contractor for reviewing dental claims, correctly determined that the palate expander was subject to the HUSKY Health’s prior authorization process as a nonemergency dental service to be provided to a child under 21 years of age.

4. “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).

Conn. Agencies Regs. § 17-134d-35 (e)(1) provides in part that “the Department shall consider additional information of a substantial nature about the presence of other severe deviations affecting the mouth and underlying structures. Other deviations shall be severe if left untreated, they would cause irreversible damage to the teeth and underlying structures.”

CTDHP correctly determined that the child does not have the presence of other severe deviations affecting the child’s oral facial structures.

5. 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.

Conn. Gen. Stat. §17b-259b (a).

A palate expander to treat the child's narrow palate is not medically necessary, as the term "medically necessary" is defined at Conn. Gen. Stat. § 17b-259b (a).

CTDHP's denial of prior authorization for a palate expander is supported by State statute and regulation.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature

Eva Tar
Hearing Officer

Cc: 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.