

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

Signature Confirmation

Client ID [REDACTED]
Case ID [REDACTED]
Request # 215267

NOTICE OF DECISION

PARTY

[REDACTED]
For: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], Connecticut Dental Health Partnership/CTDHP Dental Plans (“CTDHP”) sent [REDACTED] (“minor child”) a notice of action denying the prior authorization request for orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On [REDACTED], [REDACTED], (“Appellant”) requested an administrative hearing to contest CTDHP’s denial of prior authorization of orthodontia for the minor child.

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for [REDACTED].

On [REDACTED], 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 via teleconference at the Appellant’s request.

The following individuals called in for the hearing:

[REDACTED], Appellant
Kate Nadeau, CTDHP Representative
Dr. Stanley Wolfe, DDS, CTDHP Dental Consultant
Shawn P. Hardy, Hearing Officer

The record remained open for the submission of additional evidence from the Appellant with an opportunity for CTDHP to review any additional evidence. No new evidence was received from the Appellant or CTDHP. On [REDACTED], the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's [REDACTED], decision through the Medicaid program to deny the prior authorization request for orthodontic services for the minor child as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. [REDACTED] ("Appellant") is the mother of [REDACTED] (the "minor child"). (Hearing Record)
2. The minor child is [REDACTED] years old born on [REDACTED]. (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. For about a year the minor child has been wearing a dental device that keeps the tongue from pushing the top front teeth forward. (Appellant's Testimony)
5. The Appellant doesn't recall if the treating orthodontist said braces were medically necessary. (Appellant's Testimony)
6. The minor child does not have problems chewing or swallowing food. (Appellant's Testimony)
7. The minor child does not have pain or infection in the teeth. (Appellant's Testimony)
8. The minor child is not undergoing any psychiatric/psychological treatment related to her malocclusion. (Appellant's Testimony)
9. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)

10. [REDACTED] (the “treating orthodontist”) is the minor child’s treating orthodontist. (Hearing Summary, Exhibit 1: Prior Authorization Request and Exhibit 2: Preliminary Malocclusion Assessment Record)
11. On [REDACTED], 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 Request, Exhibit 2)
12. On [REDACTED], CTDHP received from the treating orthodontist, a Preliminary Handicapping Malocclusion Assessment Record (“assessment record”) with a score totaling **28** points, models, x-rays, and photographs of the minor child. The treating orthodontist did not find the presence of other severe deviations affecting the mouth and underlying structures. The treating orthodontist scored teeth 7, 8, 9, and 10 in open bite accounting for 8 points of the 28-points on the assessment record. The treating orthodontist listed an open bite on the right and left Maxillary teeth on the assessment record accounting for 2-points of the total 28-points. (Exhibit 2: Preliminary Malocclusion Assessment Record and Hearing Summary)
13. On [REDACTED], Dr. Geoffrey Drawbridge, DDS, CTDHP’s orthodontic dental consultant, independently reviewed the minor child’s models and x-rays and arrived at a score of **22** points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Drawbridge did not score any teeth in crossbite but scored teeth 8,9,10 in open bite. Dr. Drawbridge did not score the relationship between mandibular teeth to maxillary teeth. 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 3: Preliminary Handicapping Malocclusion Assessment Record)
14. Medicaid approves payment for orthodontia treatment when a patient scores twenty-six (26) points or more on the assessment record. CTDHP evaluates the patient’s models and x-rays submitted by the treating orthodontist to complete and score the assessment record using the Salzman Scale, a dental point system. (Dental Consultant Testimony and Hearing Summary)
15. On [REDACTED], 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 because 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 minor 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 would significantly improve such problems, disturbances, or dysfunctions. (Exhibit 4: Notice of Action for Denied Services or Goods)

16. On [REDACTED], the Department received the Appellant's request for an administrative hearing contesting CTDHP's decision to deny orthodontic treatment for the minor child. (Exhibit 5: Hearing Request)
17. On [REDACTED], Dr. Vincent Fazzino, DMD, CTDHP dental consultant, conducted an appeal review. Dr. Fazzino independently reviewed the minor child's models and x-rays and arrived at a score of **20** points on a completed assessment record. Dr. Fazzino scored teeth 8,9,10 in openbite for a score of 6-points, open spacing for teeth 6,7,8,9,10,11,20,22,23,26,27 and 29 for a score of 14 points. Dr. Fazzino did not score the relationship between mandibular to maxillary teeth as mesial. Dr. Fazzino 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. Fazzino determined the orthodontic treatment was not medically necessary. (Hearing Summary and Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record)
18. On [REDACTED], CTDHP notified the Appellant that the previously denied request for orthodontic services was upheld. CTDHP determined from the second review of dental records that the prior authorization request for orthodontic services remains denied. CTDHP lists the reasons for denial as: the minor child's score of **20** points was less than the 26 points needed for coverage, the 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 directly related to the condition of the minor child's teeth. (Exhibit 7: Determination Letter)
19. On [REDACTED], the hearing record closed. No additional evidence was received from the Appellant. No additional review was received from CTDHP.
20. 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]. However, the close of the hearing record, which had been anticipated to close on [REDACTED], did not close until [REDACTED], at the Appellant's request to allow additional time to submit additional medical evidence. The close of the hearing record was further extended through [REDACTED], to allow the CTDHP the opportunity to comment to the additional evidence

submitted by the Appellant. Because this 28-day delay in the close of the hearing record arose from the Appellant's request, this final decision is not due until [REDACTED], and is therefore timely.

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") §17b-2 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.

Regulations of Connecticut State Agencies ("Regs. Conn. State Agencies") § 17-134d-35(a) 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.

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

2. State Statute provides that 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)
3. State Statute 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. Conn. Gen. Stat. §17b-282e

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

State Regulation 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. Regs., Conn. State Agencies §17-134d-35(f)

In this case, the study models submitted for prior authorization do not show malocclusions necessary to support a score of 26 points or greater on the preliminary assessment.

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. There was no evidence that the child had the presence of any such deviations.

Further, the Appellant submitted no documentation that indicated the child has had a diagnostic evaluation performed by a licensed psychiatrist or a licensed psychologist who has accordingly limited his or her practice to child psychiatry or child psychology.

CTDHP was correct when it found that the child did not have a malocclusion of her teeth to a degree that met the criteria for severity, or 26 points, as established in state statute, and was correct when it found that there was no substantial evidence of the presence of other factors or conditions that made orthodontic treatment medically necessary.

On [REDACTED], CTDHP correctly issued the Appellant a notice of action denying the treating orthodontist's request for prior authorization to complete orthodontic treatment for the minor child under Medicaid.

DECISION

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

Shawn P. Hardy
Shawn P. Hardy
Hearing Officer

PC: 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.