

**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 # ██████████

NOTICE OF DECISION
PARTY

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On ██████ ██████, 2023, Connecticut Dental Health Partnership (“CTDHP”) the dental subcontractor for the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization of interceptive orthodontia for ██████████ (the “child”) indicating that the proposed interceptive orthodontic treatment was not medically necessary.

On ██████████, 2023, the Appellant requested an administrative hearing to contest CTDHP’s decision to deny the request for prior authorization of 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, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Kate Nadeau, Grievance and Appeals Representative, CTDHP
Dr. Vincent Fazzino, DMD, Dental Consultant, CTDHP
Joseph Davey, Administrative Hearing Office

The hearing record was held open for the submission of additional information from the Appellant and CTDHP. CTDHP submitted additional information on ██████████, 2023. The record remained open until ██████████, 2023, and closed without any submission from the Appellant.

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's decision to deny interceptive orthodontic treatment for the Appellant's child was in accordance with state statutes and regulations.

FINDINGS OF FACT

1. The child is [REDACTED] ([REDACTED]) years old (D.O.B. [REDACTED]) and is active on Medicaid. (Exhibit 1: [REDACTED] Prior Authorization Claim form dated [REDACTED] , Hearing Record, Appellant's testimony)
2. The Appellant is the child's mother. (Hearing Record, Appellant's testimony)
3. [REDACTED] , (the "Treating Orthodontist") is the child's treating provider. (Exhibit 1)
4. The child is currently undergoing treatment by [REDACTED] , a Speech-Language pathologist. (Exhibit 5: Request for Administrative Hearing dated [REDACTED] and letter from [REDACTED] dated [REDACTED] , Appellant's testimony)
5. On [REDACTED] , 2023, the Treating Orthodontist submitted a Prior Authorization claim form to CTDHP. (Exhibit 1, Hearing Record)
6. On [REDACTED] , 2023, the Treating Orthodontist submitted a Preliminary Handicapping Malocclusion Assessment Record along with models and x-rays of the child's teeth. The Treating Orthodontist noted that the "Concerned with position of #6/11 on top of #7/10 causing resorption. Recommended Expansion/Extractions space maintenance." (Exhibit 2: [REDACTED] , Malocclusion Severity Assessment dated [REDACTED] , Hearing Record)
7. The Treating Orthodontist recommended the child receive a palatal expander to address her dental issues. (Exhibit 2, CTDHP's testimony)
8. On [REDACTED] [REDACTED] , 2023, Dr. Geoffrey Drawbridge, CTDHP's orthodontic consultant, reviewed the x-rays and models of the child's teeth submitted by the Treating Orthodontist. Dr. Drawbridge did not find any evidence of severe irregular placement of the child's teeth within the dental arches and found no irregular growth or development of the child's jaw. Dr. Drawbridge commented: "Re-evaluate upon dental maturity. Does not meet Phase One treatment guidelines. Provider comments noted." There was no evidence submitted by the Appellant to substantiate that the child had mental or emotional issues directly related to her mouth. (Exhibit 3: Dr. Geoffrey Drawbridge's Malocclusion Severity Assessment dated [REDACTED] , Hearing Record)

9. On [REDACTED], 2023, CTDHP issued a NOA denying the Treating Orthodontist's request for prior authorization for interceptive orthodontic services because the documents submitted by the Treating Orthodontist provided no evidence that the requested interceptive orthodontic treatment was medically necessary as outlined by statute. In addition, no evidence was presented that a diagnostic evaluation has been done by a licensed child psychologist or child psychiatrist indicating that the child's dental condition is related to the presence of severe mental or emotional, and/or behavioral problems, disturbances, or dysfunctions, as defined in the current edition of the Diagnostic Statistical Manual. (Exhibit 4: Notice of Action dated [REDACTED])
10. On [REDACTED], 2023, the Appellant requested an appeal review and administrative hearing to contest CTDHP's decision to deny orthodontic services for her child. Included with the request was a letter from the child's Speech-Language Pathologist, [REDACTED], stating in part that the child: "...is currently seen by me for two 30 minute sessions per week for speech therapy to address her articulation of speech sounds and overall intelligibility of speech. Work is focused on her placement of her articulators as well as correct airflow and production. Oral structures are necessary for correct articulation of speech sounds and can impact oral air flow, articulator placement and can distort speech sound production." (Exhibit 5)
11. On [REDACTED], 2023, CTDHP called the Appellant to discuss the appeal/administrative hearing process. In addition, CTDHP advised the Appellant to submit a more detailed letter from the child's speech pathologist. (CTDHP's testimony, Hearing Record)
12. On [REDACTED], 2023, after the Appellant requested an administrative hearing, CTDHP conducted an appeal review of the child's teeth. (Hearing Record)
13. On [REDACTED], 2023, Dr. Vincent Fazzino, DMD, CTDHP's orthodontic consultant, reviewed the x-rays and models that were previously provided by the Treating Orthodontist. Dr. Fazzino conducted the review independently and did not find any evidence of severe irregular placement of the child's teeth within the dental arches and found no irregular growth or development of the child's jaw. Dr. Fazzino commented: "Does not meet criteria for Phase 1 TX. Case was not approved for Hyrax appliance." (Exhibit 6: Dr. Vincent Fazzino's Malocclusion Severity Assessment dated [REDACTED])
14. On [REDACTED], 2023, CTDHP issued a Determination Letter which outlined that the appeal review upheld the [REDACTED], 2023, denial for prior authorization for interceptive orthodontic services. (Exhibit 7: Determination Letter dated [REDACTED])

15. On [REDACTED], 2023, Dr. Vincent Fazzino provided a response to the Speech-Language Pathologist letter submitted by the Appellant on [REDACTED], 2023. After reviewing the Speech-Language Pathologist's letter, Dr. Fazzino wrote that "...the conclusions of the assessment record are not changed." (Exhibit 9: Dr. Vincent Fazzino's Response Letter dated [REDACTED])
16. No additional medical documentation was submitted by the Appellant which would substantiate that a palatal expander is medically necessary for the child. (CTDHP's testimony)
17. The child is not currently undergoing treatment by a licensed child psychiatrist or psychologist relating to the condition of her teeth. (Appellant's testimony)
18. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2023; therefore, this decision is due no later than [REDACTED], 2023. However, the hearing record was held open [REDACTED] ([REDACTED]) days, until [REDACTED], 2023, for the submission of information from the Appellant and CTDHP. The decision is therefore due no later than [REDACTED], 2023. (Hearing Record)

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.

The Department has the authority to administer the Medicaid program.

2. 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 determine eligibility for payment of interceptive orthodontic services provided for individuals under 21 years of age.

3. Conn. Gen. Stat. §17b-282c (a) provides in relevant part that 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. Nonemergency services that are exempt from the prior authorization process shall include diagnostic, prevention, basic restoration procedures and nonsurgical extractions that are consistent with standard and reasonable dental practices.

The Department correctly determined that the child's proposed interceptive orthodontic services are subject to prior authorization.

4. Regs., Conn. State Agencies § 17-134d-35(e)(1) provides, in relevant 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.

Regs., Conn. State Agencies § 17-134d-35(e)(2) provides, in relevant part, that 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 behavioral problems. And that orthodontic treatment is necessary and, in this case, will significantly ameliorate the problems.

Regs., Conn. State Agencies §17-134d-35(f)(1) 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 may proceed with the diagnostic assessment.

CTDHP correctly determined that there was no additional substantial information submitted regarding the presence of severe deviations affecting the child's mouth and underlying structures.

CTDHP correctly determined that there was no evidence submitted that the child is undergoing treatment by a licensed child psychologist or psychiatrist related to any mental, emotional, and/or behavior problems and that orthodontic treatment is necessary and would significantly ameliorate the problems.

5. Conn. Gen. Stat. §17b-259b(a) 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(b) provides that 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.

CTDHP correctly determined that the child did not meet the criteria under state statute; therefore, interceptive orthodontic treatment is not medically necessary.

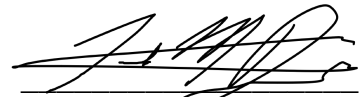
6. Conn. Gen. Stat. § 17b-259b(c) provides that upon denial of a request for authorization of services based on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other 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 notified the Appellant via the [REDACTED], 2023, NOA that she could request a copy of the specific guideline or criteria that were considered in making the determination of medical necessity.

The Department, through CTDHP, was correct in its denial of prior authorization for interceptive orthodontics, as the child's condition does not meet the statutory definition of medical necessity.

DECISION

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

A handwritten signature in black ink, appearing to read 'J. Davey', written over a horizontal line.

Joseph Davey
Administrative Hearing Officer

Cc: Rita LaRosa, CTDHP, rita.larosa@ctdhp.com
Magdalena Carter, CTDHP, magdalena.carter@ctdhp.com

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, law, and 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 requested 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 the Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to the 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 if 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 06105-3725. A copy of the petition must also be served to 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 following §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.