

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: 223248

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████, 2023, the Connecticut Dental Health Partnership (“CTDHP”), the Department of Social Services’ dental subcontractor, issued ██████████ (the “Appellant”) a *Notice of Action* denying prior authorization of comprehensive orthodontic services for ██████████ (the “child”), her minor child.

On ██████████, 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2023 postmarked 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
Cindy Ramos, CTDHP Representative
Vincent Fazzino, D.M.D., CTDHP Witness
Jonathon Vasquez, ITI Inc., Interpreter
Eva Tar, Hearing Officer

The hearing record closed ██████████, 2023.

STATEMENT OF ISSUE

The issue is whether CTDHP's denial of prior authorization for the child's comprehensive orthodontic services is supported by State statute and regulation.

FINDINGS OF FACT

1. The child's date of birth is [REDACTED]. (Appellant Testimony) (CTDHP Exhibit 1)
2. The child has dental coverage through HUSKY Health. (CTDHP Exhibit 4)
3. The Appellant is concerned that her child's two front teeth have not grown out and wants orthodontic intervention to pull the adult teeth down. It is the only reason that the Appellant is requesting approval for orthodontic treatment for her child. (Appellant Testimony) (Hearing request)
4. CTDHP is the Department of Social Services' dental subcontractor. (CTDHP Representative Testimony)
5. [REDACTED] (the "provider") is the child's orthodontist. (CTDHP Exhibit 1)
6. The provider has treated the child with a palate expander. (Appellant Testimony) (CTDHP Witness Testimony)
7. A palate expander is interceptive orthodontic treatment, or Phase I. (CTDHP Witness Testimony)
8. CTDHP authorizes only one interceptive orthodontic treatment (Phase I) for the lifetime of the patient. (CTDHP Witness Testimony)
9. On or around [REDACTED] 2023, CTDHP received a request from the provider for prior authorization of the child's comprehensive orthodontic treatment, or Phase II. (CTDHP Exhibit 1) (CTDHP Witness Testimony)
10. CTDHP authorizes only one comprehensive orthodontic treatment (Phase II) for the lifetime of the patient. (CTDHP Witness Testimony)
11. On [REDACTED] 2023, the provider scored the severity of the child's malocclusion as 14 points on a *Preliminary Handicapping and Malocclusion Assessment Record*. The provider referenced the child's [REDACTED] 2023 dental records. (CTDHP Exhibit 2)
12. The provider noted in his request for prior authorization of comprehensive orthodontic treatment that the child has a Class 1 malocclusion with mixed dentition and underlying space deficiency. (CTDHP Exhibits 2)

13. The provider alleges that the child’s maxillary left and right central incisors are impacted. (CTDHP Exhibits 2 and 5)
14. A tooth is impacted when it is stuck in the bone and is not moving at all. (CTDHP Witness Testimony)
15. Under Section G of the *Preliminary Handicapping and Malocclusion Assessment Record*, the provider left unanswered the question as to whether the child had 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 Exhibit 2)
16. Geoffrey Drawbridge, D.D.S. (the “first dental reviewer”) and Vincent Fazzino, D.M.D. (the “second dental reviewer”¹) are CTDHP dental consultants. (CTDHP Exhibits 3, 7, and 9)
17. On [REDACTED] 2023, the first dental reviewer reviewed the child’s dental records and did not score the child’s teeth on the *Preliminary Handicapping and Malocclusion Assessment Record*. (CTDHP Exhibit 3)
18. The first dental reviewer found that the child had immature dentition and recommended re-evaluation regarding the eruption progress of the child’s two front teeth. The first dental reviewer determined that the space is adequate, and impactions are not confirmed. (CTDHP Exhibit 3)
19. Immature dentition is when there is the presence of deciduous teeth—commonly called “baby teeth”—in the mouth. (CTDHP Witness Testimony)
20. The first dental reviewer determined that the child does not exhibit severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures. (CTDHP Exhibit 3)
21. The first dental reviewer does not believe that the child’s two front teeth are impacted. (CTDHP Exhibit 3)
22. On [REDACTED], 2023, the second dental reviewer reviewed the child’s dental records and scored the severity of the child’s malocclusion as 7 points on a *Preliminary Handicapping and Malocclusion Assessment Record*. (CTDHP Exhibit 6)
23. The second dental reviewer determined that the child does not exhibit severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures. (CTDHP Exhibit 6)
24. The second dental reviewer does not believe that the child’s two front teeth are impacted. (CTDHP Witness Testimony)

¹ The second dental reviewer is also CTDHP’s Witness at the [REDACTED] 2023 administrative hearing.

25. The second dental reviewer recommends that the request for comprehensive orthodontic treatment should be resubmitted in 12 to 15 months, upon dental maturity, when the child's deciduous teeth have exfoliated, to have a better idea for the child's treatment. (CTDHP Witness Testimony) (CTDHP Exhibit 9)
26. There is no evidence in the hearing record that delaying comprehensive orthodontic treatment for 12 to 15 months or until the child's dental maturity would cause irreversible damage to the adult teeth and underlying structures. (Hearing record)
27. The second dental reviewer is concerned that initiating comprehensive orthodontic treatment at this stage of the child's dental development would be precipitous and would bar the child from having corrective orthodontic treatment once his adult teeth had erupted. (CTDHP Witness Testimony)
28. On [REDACTED], 2023 and [REDACTED] 2023, CTDHP denied the provider's request for prior authorization of the child's orthodontic services. (CTDHP Exhibits 4, 5, and 7)
29. 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...." On [REDACTED], 2023, the OLCRAH received the Appellant's [REDACTED] 2023 postmarked hearing request. 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 provider's request for prior authorization of the child's comprehensive orthodontic services is subject to the HUSKY Health's review process as a nonemergency dental service to be provided to a child under 21 years of age.

4. "The Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index² indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements...." Conn. Gen. Stat. § 17b-282e.

"The need for orthodontic services shall be determined on the basis of the magnitude of the malocclusion. Accordingly, the *Preliminary Handicapping Malocclusion Assessment Record*, available from the Department, must be fully completed in accordance with the instruction sections of the form...." Conn. Agencies Regs. § 17-134d-35 (e)(1).

The child's malocclusion does not meet the criteria provided at Conn. Gen. Stat. § 17b-282e to authorize orthodontic treatment, as the provider and the second dental reviewer scored the severity of the child's malocclusion as less than 26 points on the *Preliminary Handicapping Malocclusion Assessment Record*.

5. Section 17b-282e of the Connecticut General Statutes provides:
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

² The *Salzmann Handicapping Malocclusion Index* is another name for the *Preliminary Handicapping and Malocclusion Assessment Record*.

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.

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 [REDACTED]

The child does not meet either of the permitted exceptions at Conn. Gen. Stat. § 17b-282e to permit authorization of orthodontic services for a malocclusion with a severity of less than 26 points on an objectively scored *Preliminary Handicapping Malocclusion Assessment Record*.

6. 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).

The Appellant has not established by a preponderance of the evidence that the immediate initiation of comprehensive orthodontic treatment on her child—who has mixed dentition and the presence of seven deciduous teeth—is 1) consistent with generally-accepted standards of dental practice; and 2) clinically appropriate in terms of type, frequency, timing, site, extent, and duration and considered effective for the child's dental condition.

Comprehensive orthodontic services to treat the child's malocclusion 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 the child's comprehensive orthodontic services is supported by State statute and regulation.

DISCUSSION

The hearing record indicates that the child lacks dental maturity; the child seven deciduous teeth and needs time for those teeth to exfoliate naturally for his adult teeth to emerge. The Appellant feels that her child should not have to wait a year to have orthodontic treatment.

There is no indication that the child's teeth or underlying structures would be harmed by allowing the child's adult teeth to emerge on their own. Based on the child's fairly young age (■ years), the recommendation by CTDHP that a new evaluation of the child's teeth be conducted in 12 to 15 months to assess the progress of the child's teeth is not unreasonable.

CTDHP's decision to deny prior authorization for comprehensive orthodontic treatment for the child is supported by the hearing record.

The Appellant may wish to re-initiate the prior authorization process in one year or more, after the child no longer has his deciduous teeth.

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.