

**STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725**

[REDACTED] 2024  
**Signature Confirmation**

[REDACTED]  
[REDACTED]  
**Request # 225697**

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED] 2023, CT Dental Health Partnership (“CTDHP”), the Dental Administrator for the Department of Social Services (the “Department”) sent [REDACTED] (“the child”), a Notice of Action (“NOA”) denying a request for prior authorization for orthodontic treatment indicating it was not medically necessary.

On [REDACTED], 2023, [REDACTED] (the “Appellant”), requested an administrative hearing to contest the Department’s denial of the prior authorization request for orthodontia.

On [REDACTED] 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling a telephonic administrative hearing for [REDACTED] 2023.

On [REDACTED], 2023, the Appellant requested a reschedule of the administrative hearing.

On [REDACTED] 2023, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2023.

On [REDACTED] 2023, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

██████████, Appellant, and parent of the child  
██████████, parent of the child  
Rosario Monteza, Grievance and Appeals Representative, CTDHP  
Dr. Brett Zanger, Dental Consultant, CTDHP  
Carla Hardy, Hearing Officer

The hearing record remained open until ██████████ 2023, for the Appellant to submit additional documentation from the child's orthodontist and for CTDHP to conduct a fourth review. The Hearing Officer extended the closure of the hearing record until ██████████ 2023, at the request of CTDHP because the child's orthodontist would not be available until ██████████ 2023. CTDHP did not receive additional documentation from the child's orthodontist. The hearing record closed on ██████████, 2023.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CTDHP's denial of a prior authorization request for the child's orthodontia as not medically necessary was correct and in accordance with state statutes and regulations.

### **FINDINGS OF FACT**

1. The Appellant is the child's parent. (Hearing Record)
2. The child is 12 years old (DOB ████████/11). (Exhibit 1: Prior Authorization Claim Form; Appellant's Testimony)
3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. ██████████ (the "treating orthodontist") is the child's treating orthodontist. (Exhibit 1: Prior Authorization Claim Form; Hearing Record)
5. On ██████████ 2023, CTDHP received a prior authorization request for braces for the child. (Exhibit 1: Prior Authorization Claim Form; Hearing Record)
6. The prior authorization request included a Malocclusion Severity Assessment. The treating orthodontist assigned the child a score of thirty-six (36) points. Also included were models and x-rays of the child's teeth. (Exhibit 2: The Treating Orthodontist's Preliminary Handicapping Malocclusion Assessment Record; Hearing Record)
7. On ██████████ 2023, Dr. Geoffrey Drawbridge, DDS, an Orthodontic Consultant for CTDHP reviewed the dental records and evidence provided by the child's treating orthodontist and assigned her a score of twenty-three (23) points on the Malocclusion Severity Assessment. He did not find the presence of other severe deviations affecting the child's mouth and

underlying structures. CTDHP did not receive evidence that the child presented with emotional issues related to her mouth. Dr. Drawbridge determined that orthodontic treatment is not medically necessary. He did not approve the request for braces. (Exhibit 3: Dr. Drawbridge's Preliminary Handicapping Malocclusion Assessment Record; Hearing Record)

8. On [REDACTED] 2023, CTDHP sent an NOA to the child advising her that the prior authorization request received from her provider for braces (orthodontics) was denied as not medically necessary, because (1) her score of twenty-three (23) points on the Preliminary Handicapping Malocclusion Assessment Record is less than the required twenty-six (26) points; 2) "There is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures which, if left untreated, would cause irreversible damage to the teeth or underlying structures and; 3) "There is no evidence that a diagnostic evaluation has been completed by a licensed child psychologist or a licensed child psychiatrist indicating that her 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 that orthodontic treatment will significantly improve such problems, disturbances or dysfunctions." (Exhibit 4: NOA, [REDACTED]/23)
9. On [REDACTED] [REDACTED], 2023, the Department received the Appellant's request for an appeal/hearing. (Exhibit 5: Request for Appeal and Administrative Hearing; Hearing Record)
10. On [REDACTED] 2023, pursuant to the Appellant's appeal filed on [REDACTED] 2023, Dr. Robert Gange DDS, a Dental Consultant for CTDHP conducted an appeal review of the child's dental records. He assigned the child's malocclusion a score of fifteen (15) points and commented, "Provider comments scored. No Overbite – Left side edge on – not Class II." He did not find the presence of other severe deviations affecting the child's mouth and underlying structures. He did not receive evidence showing the child presented with emotional issues related to her teeth. Dr. Gange did not approve the request for braces. (Exhibit 6: Dr. Gange's Preliminary Handicapping Malocclusion Assessment Record; Hearing Record)
11. Dr Gange's comments mean the child does not have an overbite which is when the bottom teeth touch the gingiva of the top teeth. The child has an overjet. (Dr. Zanger's Testimony)
12. On [REDACTED] 2023, CTDHP notified the Appellant that the child's score of fifteen (15) points was less than the twenty-six (26) points required to receive coverage for braces. They did not find the presence of any deviations affecting the child's mouth or underlying structures. Nor did they find any evidence presented that the child is receiving treatment by a licensed psychiatrist or psychologist related to the condition of the child's teeth. CTDHP upheld the denial for braces. (Exhibit 7: Determination Letter, [REDACTED]23)
13. CTDHP requested a third review due to the difference in scoring between the Consultants. Dr. Vincent Fazzino, DMD, assigned the child a score of twenty (20) points on the

Malocclusion Severity Assessment and did not find the presence of any deviations affecting the child's mouth or underlying structures. CTDHP did not find any evidence presented that the child is receiving treatment by a licensed psychiatrist or psychologist related to the condition of the child's teeth. Dr. Fazzino denied the braces as not medically necessary. (Exhibit 9: Dr. Fazzino's Malocclusion Severity Assessment)

14. The child is not receiving treatment from a psychiatrist or psychologist due to the condition of her teeth. (Appellant's Testimony)
15. The child has oral pain which is exacerbated by crunchy foods and playing sports. (Appellant's Testimony)
16. On the date of the hearing, the Appellant reported he wanted to secure additional documentation from the child's orthodontist to support the claim of medical necessity. (Hearing Record)
17. The Hearing Officer gave the Appellant until [REDACTED] 2023, to submit additional documentation to CTDHP. CTDHP was given until [REDACTED] 2023, to review the documentation. (Hearing Record)
18. On [REDACTED] 2023, CTDHP requested an extension of the closing date of the hearing record. The child's orthodontist was currently out of the office and would not be available until [REDACTED] 2023. The Hearing Officer extended the closing of the hearing record until [REDACTED] 2023. (Hearing Officer's Exhibit Z1: Email Correspondence between CTDHP and the Hearing Officer)
19. On [REDACTED] 2023, the Hearing Officer notified the Appellant via the United States Postal Service that the closing of the hearing record was extended until [REDACTED] 2023. (Hearing Officer's Exhibit Z2: Letter Sent to the Appellant, [REDACTED]/23)
20. On [REDACTED] 2023, the Hearing Officer notified CTDHP that the closure date for the hearing record was extended until [REDACTED] 2023. (Hearing Officer's Exhibit Z3: Email Correspondence between CTDHP and the Hearing Officer, [REDACTED]/23)
21. On [REDACTED] 2024, CTDHP reported they did not receive additional documentation from the child's orthodontist. (Hearing Officer's Exhibit Z4: Email between the Hearing Officer and CTDHP)
22. 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 the hearing on [REDACTED], 2023; therefore, this decision is due no later than [REDACTED] 2024. However, the Appellant requested a reschedule of the hearing which caused a six-day delay. In addition, the hearing record remained open for an additional fourteen days for CTDHP to receive and review new documentation from the child's orthodontist. The closing of the hearing record was delayed another eight days

when the child's orthodontist was not available. The hearing record was delayed 28 days. Therefore, this decision is due no later than [REDACTED], 2024. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes §17b-2 designates in part that the Department of Social Services is 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 Medicaid program.**

2. 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. Orthodontic services will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Regs., Conn. State Agencies § 17-134d-35(a)]
4. Orthodontic services are limited to recipients under twenty-one (21) years of age. [Regs., Conn. State Agencies § 17-134d-35(d)]
5. "The Department of Social Services shall cover orthodontic services for a Medicaid recipient under 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 individuals daily functioning. . . ." [Conn. Gen. Stat § 17b-282e]

"When an eligible recipient is determined to have a malocclusion, the attending dentist should refer the recipient to a qualified dentist for 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)]

**The Appellant did not provide evidence from a licensed psychiatrist or a licensed psychologist who has limited his or her practice to child psychiatry or child psychology indicating the child suffered from the presence of mental, emotional, and/or behavior problems due to her malocclusion.**

6. 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).

[Regs., Conn. State Agencies § 17-134d-35(f)(1)]

The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Regs., Conn. State Agencies § 17-134d-35(f)(1)(D)]

**Because the child's three CTDHP Malocclusion Severity Assessments were less than 26 points and there was no substantial evidence presented about the**

presence of severe deviations affecting her mouth and underlying structures, orthodontic services are not determined medically necessary.

The child's malocclusion severity does not meet the criteria for medical necessity for approval of the prior authorization request for orthodontic treatment.

CTDHP correctly denied the request for orthodontic treatment for the child as it was not medically necessary.

**DECISION**

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

\_\_\_\_\_*Carla Hardy*\_\_\_\_\_  
Carla 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 06105-3725.

### 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 06105-3725. 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.