

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

██████████, 2019  
Signature Confirmation

██████████  
Request #141297

NOTICE OF DECISION  
PARTY

██████████  
PROCEDURAL BACKGROUND

On ██████████ 2019, the Connecticut Dental Health Partnership ("CTDHP"), sent ██████████ (the "Appellant") a notice of action ("NOA") denying a request for prior authorization of orthodontia services for his minor child, ██████████ (the "child"). The notice indicated that the severity of the child's malocclusion did not meet the requirements in state law to approve the proposed treatment.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████, 2019, the Appellant requested a reschedule.

On ██████████, 2019, OLCRAH issued a notice rescheduling the hearing for ██████████, 2019.

On ██████████, 2019, 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. The following individuals were present at the hearing:

██████████, Appellant's wife  
██████████, the child  
Rosario Monteza, CTDHP's Representative

Dr. Gregory Johnson, CTDHP's Dental Consultant, by phone  
Veronica King, Hearing Officer

### STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization through the Medicaid program for the child's orthodontic services as not medically necessary was in accordance with state statutes and state regulations.

### FINDINGS OF FACT

1. The Appellant is the child's father. (Hearing Record)
2. [REDACTED] is the child's mother and the Appellant's spouse. (Hearing Record)
3. The child is [REDACTED] years old (D.O.B. [REDACTED]) and a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Exhibit 1: Prior Authorization Claim and Hearing Record)
4. CTDHP also known as BeneCare Dental Plans is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
5. [REDACTED] is the child's treating orthodontist (the "treating orthodontist"). (Exhibit 1 and Hearing Record)
6. On [REDACTED] 2019, the treating orthodontist submitted to BeneCare, a Preliminary Handicapping Malocclusion Assessment Record with a score of 23 points, dental models and panorex films of the child's mouth. The doctor commented; "Both upper canines are impacted. Patient could greatly benefit from orthodontic treatment." (Exhibit 2: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/19)
7. The treating orthodontist's malocclusion assessment does not indicate that the child has a presence of other severe deviation affecting the mouth and underlying structure. (Exhibit 2)
8. On [REDACTED] 2019, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed the child's models and panoramic radiographs and arrived at a score of 13 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Monastersky also found no presence of severe deviations affecting the mouth and underlying structures. Dr. Monastersky commented; "Number six (6) and eleven (11)

appear to be erupting toward the buccal. Patient is only [REDACTED] with other teeth to erupt. Re-evaluate in one year." (Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/19)

9. On [REDACTED] 2019, CTDHP issued a notice denying the treating orthodontist's request for prior authorization for orthodontic services because the child's score was less than 26 points on the Malocclusion Assessment Record, his teeth were not crooked enough to qualify for braces and the teeth currently poses no threat to the jawbone or the attached soft tissue. (Exhibit 4: Notice of Action for Denied Services or Goods, [REDACTED]/19)
10. On [REDACTED] 2019, the Department received a request for an administrative hearing from the Appellant. (Exhibit 5: Hearing Request)
11. On [REDACTED] 2019, Dr. Vincent Fazzino, DMD, BeneCare's dental consultant, independently reviewed the child's models and panoramic radiographs and arrived at a score of 12 points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino also found no presence of severe deviations affecting the mouth and underlying structures and commented; "Provider's comments noted. Re-evaluate case upon dental maturity." (Exhibit 8: Preliminary Handicapping Malocclusion Assessment Record, [REDACTED]/19)
12. On [REDACTED], 2019, CTDHP notified the Appellant that the request for orthodontic services was denied because the child's second score of 12 points was less than the 26 points needed for coverage, 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 related to the condition of the child's teeth. (Exhibit 9: Letter Regarding Orthodontic Services, [REDACTED]/19)
13. The child does not have problems chewing or swallowing food. (Appellant's wife's Testimony)
14. The child experiences pain when eating hard foods. There is no infection of the mouth. (Child's Testimony and Appellant's wife's Testimony)
15. The child has a presense of baby teeth. (Appellant's wife's Testimony and Hearing Record)
16. The child is not being treated by a qualified psychiatrist or psychologist for mental emotional or behavior problems, disturbances or dysfunctions related to his malocclusion at this time. (Hearing Record)
17. 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] 2019. This decision, therefore, was due no later than [REDACTED], 2019. However, the hearing, which was originally scheduled for [REDACTED], 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 28-day delay. Because this 28-day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2019, and is therefore timely."(Hearing Record)

### CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]
2. State regulations provide that orthodontic services for services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Conn. Agencies Regs. §17-134d-35(a)]
3. State regulation provides(a) 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]
4. State regulations provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Conn. Agencies Regs. §17-134d-35(f)]

5. Sec. 17b-282e of the Connecticut General Statutes provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzman 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 Salzman 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.
6. State statute requires 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. [Conn. Gen. Stats. § 17b-259b(c)]

**CTDHP correctly determined that the child's malocclusion did not meet the criteria for severity, or 26 points, as established in state regulations.**

**CTDHP correctly determined that the child did not have a deviation of such severity that would cause irreversible damage to the teeth and underlying structures if left untreated.**

**CTDHP correctly determined that the child has not been treated by a licensed psychologist or licensed psychiatrist who has accordingly limited his or her practice to child psychiatry or child psychology.**

**CTDHP correctly determined that the child's malocclusion did not meet the criteria for medical necessity as established in state regulations at this time.**

**CTDHP correctly denied prior authorization because the child does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations.**

### DISCUSSION

State regulations provide that when a child is correctly scored with at least 26 points on a Preliminary Handicapping Malocclusion Assessment Record, a test measuring severity of malocclusion and dentofacial deformity, the Medicaid program will authorize and pay for orthodontic treatment.

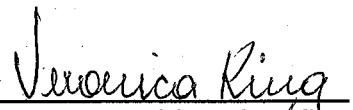
The treating orthodontist scored the malocclusion of the child's teeth to equal 23 points and indicated on his comment that the child had presence of impacted teeth. Two other dentists in blind reviews independently assessed the child's models and scored the malocclusion to equal 13 and 12 points, respectively. It is reasonable to conclude that the models do not support the severity of malocclusions and dentofacial deformity. His treating orthodontist's remarks do not support the severe deviation criteria.

There is some consensus across all three assessments that the child has the presence of crowding with his teeth and has been evaluated and scored accordingly. The issue is the severity of the malocclusion. Unfortunately, based on the evidence provided by the treating orthodontist, the child's malocclusion does not meet the medical necessity criteria for orthodontic services, in accordance with state statutes and regulations at this time.

The Appellant's request for prior authorization of orthodontia treatment remains denied.

### DECISION

The Appellant's appeal is DENIED.

  
Veronica King  
Hearing Officer

Cc: Diane D'Ambrosio, 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, 55 Elm Street, 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.