

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

Date  
Signature Confirmation

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

**NOTICE OF DECISION**  
**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED] [REDACTED], BeneCare Dental Plans/CT Dental Health Partnership ("BeneCare") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of interceptive orthodontic treatment for [REDACTED], her minor child (the "Child"), indicating that the proposed orthodontia treatment is not medically necessary.

On [REDACTED], the Appellant requested an administrative hearing to contest the denial of prior authorization of interceptive orthodontic treatment for her 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 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing telephonically.

The following individuals participated in the hearing:

[REDACTED], Appellant

██████████, Interpreter, ITI Inc.  
 Rosario Monteza, BeneCare's Representative  
 Dr. Vincent Fazzino, DMD, BeneCare Dental Consultant  
 Sara Hart, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether BeneCare's denial of a prior authorization request for approval of Medicaid coverage for interceptive orthodontic treatment for her child as not medically necessary was correct and in accordance with state law.

### **FINDINGS OF FACT**

1. The Appellant is the mother of the minor child, ██████████ (the "Child"), who was born on ██████████ and is currently █ years old. (*Exhibit 1A: Dental Claim Form, Hearing Summary*)
2. The Child is a participant in the Medicaid program as administered by the Department of Social Services (the "Department"). (*Hearing Record*)
3. BeneCare is the Department's contractor for reviewing dental provider's requests for prior authorization of interceptive orthodontic treatment. (*Hearing Record*)
4. ██████████ is the child's treating orthodontist. (*Exhibit 1A, Hearing Summary*)
5. On ██████████, the treating orthodontist requested prior authorization to complete interceptive orthodontic services for the child. (*Exhibit 1A: Hearing Summary*)
6. On █ █ █, the treating orthodontist sent BeneCare a Preliminary Handicapping Malocclusion Assessment Record with a score of 8 points, dental models, photographs, and x-rays of the child's mouth. The treating provider commented: "Client has no missing teeth. Patient needs phase one treatment – bite ramp #25 to correct crossbite." (*Exhibit 2A: Preliminary Handicapping Assessment dated ██████████; Hearing Summary*)
7. On ██████████, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed the child's dental models, photographs, and x-rays of her teeth. The doctor commented: "Does not meet phase one treatment guidelines." Dr. Monastersky did not indicate the presence of other severe deviations affecting the mouth and underlying structures. Dr. Monastersky's decision was that interceptive orthodontic treatment is not medically necessary for

- the child at this time. (*Exhibit 3A: Dr. Monastersky's Assessment dated [REDACTED] Hearing Summary*)
8. On [REDACTED] [REDACTED] [REDACTED], BeneCare notified the Appellant that an appeal review determined that interceptive orthodontic treatment is not medically necessary as no presence was found of any deviations affecting the child's mouth or underlying structures. (*Exhibit 4A: Notice of Action for Denied Services or Goods dated [REDACTED]*)
  9. On [REDACTED], the Appellant requested an administrative hearing to contest the denial of the Child's orthodontic treatment. (*Exhibit 5: Hearing Request*)
  10. On [REDACTED], Dr. Vincent Fazzino, DMD, a dental consultant for BeneCare, independently reviewed the child's models and x-rays. Dr. Fazzino commented, "Case does not meet phase one criteria for approval." Dr. Fazzino determined that interceptive orthodontic treatment is not medically necessary as no presence was found of any deviations affecting the child's mouth or underlying structures. (*Exhibit 7A: Dr. Fazzino's Assessment dated [REDACTED]; Hearing Summary*)
  11. The Child does not have a medical condition in which orthodontic treatment would improve and is not under the care of a psychiatrist or psychologist. (*Appellant's Testimony*)
  12. Interceptive orthodontic treatment, also known as Phase One treatment, is the early treatment for children who do not have fully developed adult dentition. Phase One treatment is based on the existence of a condition of sufficient severity limited to deep impinging overbite, functional deviation, class III malocclusion, gingival recession, severe overjet of more than 9 millimeters, open bite, and anterior impacted tooth. The child does not meet any of the required criteria. (*Dr. Fazzino's testimony*)
  13. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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]. This decision, therefore, is due no later than [REDACTED]. (*Hearing Record*)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes 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.
2. Section 17-134d-35(a) of the Regulations of Connecticut State Agencies provide

that orthodontic services 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.

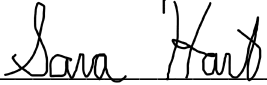
3. Section 17b-259b of the Connecticut General Statutes provides (a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate 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.
4. Section 17b-259b(b) of the Connecticut General Statutes 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 request health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.

**The x-rays and models submitted by the treating provider do not support the presence of any deviations affecting the mouth or underlying structures as required by state regulations for the authorization of interceptive orthodontia treatment.**

**BeneCare correctly determined that the child's malocclusion did not meet the criteria for approval of interceptive orthodontic treatment and correctly denied prior authorization because the child does not meet the medical necessity criteria for interceptive orthodontic services as defined by state statute and regulation.**

**DECISION**

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

  
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Sara Hart  
Hearing Officer

CC: Magdelana Carter, Connecticut Dental Health Partnership/Benecare  
Rita Larosa, Connecticut Dental Health Partnership/Benecare

### **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.