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

[redacted]
Signature Confirmation

Case ID # [redacted]
Client ID #: [redacted]
Request #: 255678

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], Connecticut Dental Health Partnership/CTDHP Dental Plans ("CTDHP") sent [redacted] ("minor child") a notice of action denying the prior authorization request for orthodontia treatment indicating that the proposed orthodontia treatment is not medically necessary.

On [redacted], the Appellant's mother [redacted] requested an administrative hearing to contest the Department's denial of prior authorization of 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 by phone.

The following individuals were present at the hearing:

[redacted], Appellant's Mother
Kate Nadeau, CTDHP's Representative
Dr. Vincent Fazzino, CTDHP's Dental Consultant
Shawn P. Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CTDHP's [redacted], decision through the Medicaid program to deny the prior authorization request for orthodontic services for the minor child as not medically necessary was in accordance with state statutes and state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of [redacted] (the "child"). (Hearing record)

2. The child aged [redacted], (D.O.B. [redacted]) is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing record)

3. CTDHP is the Department's contractor for reviewing dental providers' requests for prior authorization for braces. (Hearing record)

4. [redacted] is the child's treating orthodontist (the "treating orthodontist"). (Hearing Summary, Exhibit 1A: Orthodontia Services Claim Form)

5. On [redacted], CTDHP received a Prior Authorization Claim Form and a Preliminary Handicapping Malocclusion Assessment Record from the ("treating orthodontist") with a score of [redacted] points. The doctor made no comments. (Exhibit 2A: [redacted] Malocclusion Assessment)

6. The minor child has low self-esteem and is being bullied because of her teeth. (Appellant's Testimony)

7. The bullying led to the minor child trying to harm herself. (Appellant's Testimony, Exhibit 6: School notes / bullying report, hospital documents, LMFTA Letter)

8. The Appellant does not recall if the orthodontist said braces were medically necessary. (Appellant's Testimony)

9. The minor child has been receiving counseling support from a Licensed Marriage and Family Therapist Associate (LMFTA) since [redacted]. (Appellant's Testimony, Exhibit 6)

10. The minor child has mild pain in her jaw, and problems chewing food. (Appellant's Testimony)

11. The Prior Authorization Form makes no reference that the child has pain in her jaw or problems swallowing food. (Dental Consultant's Testimony, Exhibit 1A)

12. On [redacted], Dr. Ronald Bucari DDS, CTDHP's orthodontic dental consultant, independently reviewed the child's x-rays and models of her teeth. Dr. Bucari found no evidence of severe irregular placement of the child's teeth within the dental arches and no irregular growth or development of the jaw bones. There was no evidence presented of emotional issues directly related to her mouth. The Malocclusion Severity Assessment scored [redacted] points. (Exhibit 3A: Dr. Bucari's Assessment, [redacted])

13. On [redacted], CTDHP denied the treating provider's request for prior authorization for orthodontic services as child's score was less than the [redacted] points needed for coverage and there was no 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. The child's teeth and their position show that his teeth are not crooked enough to qualify for braces at this time. Also, there was no evidence that a licensed child psychologist or a licensed child psychiatrist had done a diagnostic evaluation showing 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 and orthodontic treatment will significantly improve such problems, disturbances, or dysfunctions. (Exhibit 4A: Notice of Action for Denied Services or Goods [redacted])

14. On [redacted] CTDHP received the client's request for an Appeal/Hearing. (Exhibit, Exhibit 5A: Appeal and Administrative Hearing Request Form [redacted])

15. On [redacted], a CTDHP Grievance and Appeals Representative telephoned [redacted]. [redacted]. The Appeals / Hearing process was explained. [redacted] stated that she will get a letter from the child's therapist. (Hearing Summary)

16. On [redacted], a CTDHP Grievance and Appeals received an email from [redacted]. [redacted] which included a School Note / Bullying Report, hospital documents, and LMFTA letter. Documents were forwarded to the Dental Consultant for review. (Hearing Summary, Exhibit 6)

17. On [redacted], Dr. Vincent Fazzino, CTDHP's orthodontic dental consultant, independently reviewed the child's models and x-rays. The Malocclusion Severity Assessment scored [redacted] points. **The doctor commented; "The school note from [redacted] dated [redacted] has been reviewed. This does not alter the scoring record. Also, the documents from [redacted] have been reviewed dated [redacted], this does not alter the scoring record."** Dr. Fazzino determined that orthodontic treatment is not medically necessary. The doctor did not find evidence of severe irregular placement of her teeth within the dental arches and no irregular growth or development of the jaw bones. There was no evidence presented stating the presence of emotional issues directly related to her dental situation. (Exhibit 7A: Dr. Fazzino's Assessment [redacted])

18. The letter regarding counseling support for the minor child does not meet the required criteria because it's from a therapist and not from someone who is a PHD, or MD. (Dental Consultant's Testimony)

19. On [redacted], CTDHP notified the Appellant's mother that an appeal review determined that orthodontic services is not medically necessary as no presence was found of any deviations affecting the child's mouth or underlying structures, score of [redacted] points on a completed Preliminary Handicapping Malocclusion Assessment Record and there was no evidence the child is receiving treatment by a licensed psychiatrist or psychologist related to the condition of her teeth. (Exhibit 8A: Determination letter, [redacted]

20. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a) ("Conn. Gen. Stat."), 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]. Therefore, this decision is due on [redacted], and is timely.

CONCLUSIONS OF LAW

1. 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.

   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 administer and determine eligibility for the Medicaid program.

2. Conn. Gen. Stat. §17b-259b 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.

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.

4. Conn. Gen. Stat. §17b-282e provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient less than 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 individual's daily functioning.

5. 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.

6. Regs., Conn. State Agencies § 17-134d-35(e)(2) provides, in relevant part, 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. <u>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.</u>

7. 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 the child's malocclusion did not meet the medically necessary criteria for approval of orthodontic treatment as established in state statute and was correct to deny prior authorization because the child does not meet the medical necessity criteria for orthodontic services, following state statutes and regulations. (see COL #4)

CTDHP correctly determined that the child's dental models and x-rays did not show the presence of severe deviations affecting the mouth and underlying structures for the authorization of interceptive orthodontic treatment. (see COL #5)

The Appellant failed to provide any documentation to substantiate that the minor child is receiving therapy from a licensed psychiatrist or licensed psychologist.

CTDHP correctly determined that the child has not received a diagnostic evaluation performed by a licensed psychiatrist or a licensed psychologist who has limited his or her practice to child psychiatry or child psychology regarding a dentofacial deformity related to the child's mental, emotional, and/or behavior problems. (see COL #6)

8. 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 determining medical necessity.

CTDHP correctly issued a Notice of Action for Denied Services or Goods on [redacted], and a Determination Letter upholding the denial on [redacted].

DECISION

The Appellant's appeal is denied.

Shawn P. Hardy
Shawn P. Hardy
Hearing Officer

Cc: 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, 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 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 the Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 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 his designee per §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.