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

[redacted]
SIGNATURE CONFIRMATION

CASE # [redacted]
CLIENT ID # [redacted]
REQUEST # 255848

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], the Connecticut Dental Health Partnership ("CTDHP"), the Department of Social Services' (the "Department") dental review contractor, issued [redacted] (the "Appellant"), a Notice of Action ("NOA") denying prior authorization of orthodontic services for [redacted], (the "Child"), her minor child.

On [redacted], the Appellant requested an administrative hearing to contest the denial of prior authorization for orthodontia treatment.

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, the OLCRAH held a telephonic administrative hearing.

The following individuals participated in the hearing:

[redacted], Appellant
Kate Nadeau, CTDHP Representative
Dr. Brett Zanger, DMD, CTDHP Dental Consultant
Sara Hart, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether CTDHP's denial of prior authorization for the Child's orthodontic services as not medically necessary was in accordance with State statutes and regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the Child. *(Hearing Record)*

2. The Child is [redacted] years old (DOB: [redacted]) and is a participant in the HUSKY Medicaid program administered by the Department. *(Exhibit 1: Prior Authorization Claim form, Hearing Record)*

3. The CTDHP is the Department's contractor for reviewing dental provider requests for prior authorization of orthodontic treatment. *(Hearing Record)*

4. [redacted] DBA [redacted] is the Child's treating orthodontist (the "treating orthodontist"). *(Exhibit 1, Hearing Summary)*

5. On [redacted], the treating orthodontist requested prior authorization approval from CTDHP to complete orthodontic services for the Child. *(Exhibit 1, Hearing Record)*

6. On [redacted], CTDHP received a Preliminary Handicapping Malocclusion Assessment Record, dated [redacted], from the treating orthodontist for the Child with a score of thirty- four (34) points. The treating orthodontist included models and x-rays of the Child's mouth. *(Exhibit 2: [redacted] Preliminary Handicapping Malocclusion Assessment, Hearing Record)*

7. On [redacted], Dr. Vincent Fazzino, DMD, an orthodontic dental consultant with the CTDHP, independently reviewed the x-rays and models of the Child's teeth and arrived at a score of seventeen (17) points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Fazzino found no severe deviations affecting the Child's mouth and underlying structures. *(Exhibit 3: Dr. Fazzino's Preliminary Handicapping Malocclusion Assessment Record)*

8. On [redacted], the CTDHP issued a notice to the Appellant, which denied the treating provider's request for prior authorization for orthodontic services because the scoring of the Child's mouth was less than the twenty-six (26) points needed for coverage, and there is no substantial information about the presence of severe deviations affecting the mouth and underlying structures. Also, there was no evidence that a licensed child psychologist or a licensed child psychiatrist conducted a diagnostic evaluation indicating that the Child's dental condition is related to the presence of severe mental 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 4: Notice of Action for Denied Services or Goods)*

9. On [redacted], the Appellant requested an administrative hearing to contest the Department's decision to deny orthodontia services for her minor child. *(Exhibit 5: Hearing Request)*

10. On [redacted], Dr. Robert Gange, DDS, an orthodontic dental consultant with the CTDHP, conducted an independent appeal review of the Child's x-rays and dental models and arrived at a score of fifteen (15) points on a completed Preliminary Handicapping Malocclusion Assessment Record. Dr. Gange found no severe deviations affecting the Child's mouth and underlying structures. *(Exhibit 6: Dr. Gange's Preliminary Handicapping Malocclusion Assessment Record)*

11. On [redacted] the CTDHP issued a Determination Letter to the Appellant which again denied the treating provider's request for prior authorization for orthodontic services for the reason that the scoring of the Child's mouth was less than the twenty-six (26) points needed for coverage, there is no substantial information about the presence of severe deviations affecting the mouth and 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 7: Determination Letter)*

12. The Child sometimes has difficulty chewing foods such as steak and sometimes experiences pain in his mouth. He takes Tylenol and Ibuprofen for pain relief. *(Appellant's Testimony)*

13. The Child is not diagnosed with a mental, emotional, or behavioral issue directly related to the condition of his teeth. *(Hearing Record)*

14. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires the agency to issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted], with this decision due no later than [redacted]

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.

   Section 17b-262 of the Connecticut General Statutes provides that the Department may make such regulations as are necessary to administer the medical assistance program.

   The Department has the authority to administer and regulate the HUSKY Medicaid program in Connecticut.

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.

   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.

   Section 17b-282e of the Connecticut General Statutes provides 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 individual's daily functioning.

Section 17-134d-35(f) of the Regulations of Connecticut State Agencies provides in part that the study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment.

The CTDHP correctly determined that the Child's dental models and x-rays do not meet the requirement of a twenty-six (26) point score on the Salzmann Preliminary Handicapping Malocclusion Assessment Record. Orthodontic treatment is not medically necessary because there is no evidence of severe deviations affecting the mouth and underlying structures, and the Child's Salzmann scores are less than the requisite 26 points.

3. Section 17-134d-35(e)(2) of the Regulations of Connecticut State Agencies provides 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 clearly 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.

   The CTDHP correctly determined orthodontic services are not medically necessary because the child has not received a diagnostic evaluation performed by a licensed child psychologist or licensed child psychiatrist regarding the presence of severe mental, emotional, and/or behavioral problems, disturbances or dysfunctions caused by his malocclusion.

4. Section 17b-259b(c) of the Connecticut General Statutes 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 making the determination of medical necessity.

   The CTDHP correctly denied the prior authorization for orthodontic services because the condition of the Child's mouth does not meet the medical necessity criteria in accordance with state statutes and regulations.

The 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**.

Sara Hart
Sara Hart
Fair Hearing Officer

CC: Magdalena Carter, CTDHP, [redacted]
Rita LaRosa, CTDHP, [redacted]

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.