

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

██████████ 2017
Signature confirmation

Client: ██████████
Request: 827508

NOTICE OF DECISION

PARTY

██████████
Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, Community Health Network of Connecticut (“CHNCT”) issued ██████████ (the “Appellant”) a *Notice of Action* denying ██████████, Inc.’s request for prior authorization for a cranial remolding orthosis for ██████████ the Appellant’s infant.

On ██████████ 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On ██████████ 2017, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals participated in the administrative hearing:

██████████, Appellant
Fabiola Goin, RN, CHNCT’s representative
Eva Tar, Hearing Officer

The hearing record remained open to allow the Appellant the opportunity to review the CHNCT’s exhibits and provide comment. On ██████████ 2017, the hearing record closed.

STATEMENT OF ISSUE

The issue of this hearing is whether CHNCT correctly denied ██████████, Inc.’s request for prior authorization for a cranial remolding orthosis for ██████████

FINDINGS OF FACT

1. [REDACTED] date of birth is [REDACTED] 2016. (CHNCT's Exhibit 1, p.4)
2. [REDACTED] has medical coverage through the HUSKY program. (CHNCT's Exhibit 3, p.1)
3. [REDACTED] has a diagnosis of plagiocephaly. (CHNCT's Exhibit 1, p.7)
4. "Plagiocephaly" is flatness on the back of the head. (CHNCT's representative's testimony)
5. [REDACTED] pediatrician is [REDACTED], M.D, MPH (the "pediatrician"). (CHNCT's Exhibit 1, p.4)
6. On [REDACTED] 2017, [REDACTED] pediatrician found that [REDACTED] had no suture abnormalities and that her head size was appropriate for her age. (CHNCT's Exhibit 1, p.4)
7. [REDACTED] pediatrician does not believe that [REDACTED] head shape is due to craniosynostosis. (CHNCT's Exhibit 1, p.4)
8. "Craniosynostosis" is when a baby's head sutures fuse prematurely; babies' sutures tend to naturally fuse at approximately one year. (CHNCT's representative's testimony)
9. The Appellant was educated on conservative therapies to reshape [REDACTED] head, including: reposition for two months and neck exercises for one month. The Appellant was instructed to increase "tummy time" 60 to 90 minutes daily. (CHNCT's Exhibit 1 p.4)
10. On [REDACTED] 2017, [REDACTED] pediatrician referred [REDACTED] to [REDACTED], Inc. for further evaluation. (CHNCT's Exhibit 1, p.4)
11. [REDACTED], Inc. determined that [REDACTED] has occipital flattening (right); frontal flattening (left); anterior ear shift (right); anterior orbit shift (right); and eye fissure narrowed (left). (CHNCT's Exhibit 1, p.10)
12. On a Cephalic Index which compares width (123 mm) versus length (138 mm), [REDACTED] measures 89.1%. (CHNCT's Exhibit 1, p.11)
13. [REDACTED] cranial vault asymmetry is 7 mm. (CHNCT's Exhibit 1, p.11)
14. On [REDACTED] 2017, [REDACTED], Inc. submitted a prior authorization request to CHNCT for a proprietary DOC Band (the "cranial remolding orthosis") with office visits for fitting and adjustments for [REDACTED] (CHNCT's Exhibit 1, p.1 and p.3)
15. The cranial remolding orthosis is a lightweight band that goes around the baby's head, almost like a helmet. The baby wears it for about 23 hours per day in the first two weeks. (CHNCT's representative's testimony)

16. On ██████ 2017, CHNCT reviewed ██████, Inc.'s ██████ 2017 request for prior authorization for the cranial remolding orthosis. (CHNCT's Exhibit 2)
17. "Moderate" plagiocephaly in infancy equals 10 mm to 12 mm in the Trans Diagonal Difference (TDD) or a Cephalic Index of 90% to 100%. (CHNCT's Exhibit 13, p.5)
18. "Severe" plagiocephaly in infancy exceeds 12 mm in the TDD or a Cephalic Index exceeding 100%. (CHNCT's Exhibit 13, p.5)
19. CHNCT determined that neither ██████ Cephalic Index measurement of 89.1% nor her TDD of 7 mm was indicative of moderate to severe plagiocephaly. (CHNCT's Exhibit 2)
20. On ██████ 2017, CHNCT denied ██████, Inc.'s request for prior authorization of cranial remolding orthosis, as it was not medically necessary. (CHNCT's Exhibit 3, p.1)
21. In its ██████ 2017 *Notice of Action* CHNCT noted that ██████ head measurements did not meet at least one of two criteria; the document referenced InterQual criteria: Orthosis, cranial remodeling.¹ (CHNCT's Exhibit 3, p.1)
22. InterQual criteria reflect clinical interpretations and analyses; it is intended for use as screening guidelines with respect to medical appropriateness of healthcare services. (CHNCT's Exhibit 13, p. 3)
23. CHNCT's ██████ 2017 *Notice of Action* instructed the Appellant to talk with her doctor about other ways to adjust the flatness of ██████ head. (CHNCT's Exhibit 3, p.1)
24. On ██████ 2017, ██████ pediatrician determined that ██████ cranial vault symmetry equaled 8 mm. (CHNCT's Exhibit 9, p.2)
25. ██████ pediatrician recommends treatment with a cranial remolding orthosis to reduce ██████ cranial asymmetries to within 5 mm. (CHNCT's Exhibit 9, p.2)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-262 of the Connecticut General Statutes provides in part that the Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.

¹ The terms "*cranial **remolding** orthosis*" and "*cranial **remodeling** orthosis*" are used interchangeably in CHNCT's exhibits. For consistency, this decision uses the term referenced in CHNCT's July 21, 2017 Hearing Summary and the May 31, 2017 *Notice of Action*: cranial remolding orthosis.

3. 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).
4. Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. Conn. Gen. Stat. § 17b-259b (b).
5. 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. Stat. § 17b-259b (c).
6. [REDACTED] cranial measurements do not support a finding that a cranial remolding orthosis is medically necessary, as the measurements do not objectively fall within the definition of “moderate to severe” plagiocephaly.
7. CHNCT correctly denied [REDACTED], Inc.’s request for prior authorization for a cranial remolding orthosis for [REDACTED]

DECISION

The Appellant’s appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Fabiola Goin, CHNCT
Fatmata Williams, DSS-Central Office

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.