

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3730

██████████ 2016  
Signature Confirmation

Request # 781026

Client ID # ██████████

NOTICE OF DECISION

PARTY

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██  
██  
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PROCEDURAL BACKGROUND

On ██████████ 2016, Ascend Management Innovations LLC, (“Ascend”) the Department of Social Services contractor that administers approval of nursing home care, sent ██████████ ██████████ (the “Appellant”) a notice denying Nursing Facility (“NF”) Level of Care (“LOC”) because he does not meet the medical criteria, as defined in section 17b-259b of the Connecticut General Statutes.

On ██████████ 2016, the Appellant requested an administrative hearing to contest Ascend’s decision.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ ██████████ 2016.

On ██████████ 2016, 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 were present at the hearing:

██████████, Appellant

Josphine Barnett, Director of social services for Cheshire Regional Rehab Center

Toni Noble, LPN for Cheshire Regional Rehab Center

Elizabeth Orejuela, RN, Alternate Care Unit, DSS

Charles Bryan, RN, Alternate Care Unit, DSS

Sheila McCloskey, RN, ASCEND (participated by telephone)

Swati Sehgal, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2016 the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether Ascend correctly determined that skilled nursing facility placement is not medically necessary for the Appellant.

### **FINDINGS OF FACT**

1. On ██████████ 2015, the Appellant was admitted to Cheshire Regional Rehab Center, a skilled nursing facility. (Hearing Summary)
2. The Appellant's medical diagnoses were sepsis, left foot infection, status post partial first ray amputation of the left foot, osteomyelitis (infection and inflammation of the bone and bone marrow) involving the left foot, coronary artery disease, chronic pain syndrome, insomnia, hypertension, dyslipidemia, gastro esophageal reflux disease, rapid atrial fibrillation, and polyglandular autoimmune syndrome. Past medical history includes myocardial infarction (commonly known as a heart attack), stent placement, L-5-s1 fusion (spinal fusion), right hip arthroplasty due to avascular necrosis, alcohol abuse, anxiety and depression. (Hearing summary and Exhibit 6: Connecticut LTC level of care determination form)
3. The Appellant is 59 years old (DOB ██████████ 1956) and a Medicaid recipient. (Exhibit 6: Level of Care Report; Appellant's testimony)
4. The Appellant has applied and has been accepted for the Money Follows the Person program ("MFP"). (Appellant's and Cheshire Regional Rehab Center's testimony)
5. On ██████████ 2015, Cheshire Regional Rehab Center submitted a Nursing Facility Level of Care ("NF LOC") evaluation form to Ascend. Ascend approved the Appellant for 90 days of short term care. (Hearing Summary)

6. On ██████████ 2015, Cheshire Regional Rehab Center submitted a second NF LOC screen to Ascend. Ascend approved the Appellant for 60 days of extended short-term care due to his continued need with supervision with bathing, mobility and transfer. In addition, the Appellant required physical assistance with taking medication. (Hearing Summary)
7. On ██████████ 2015, Cheshire Regional Rehab Center submitted a third NF LOC screen to Ascend. Ascend approved the Appellant for 120 days of extended short term care due to the Appellant's continued need with supervision with bathing, dressing, toileting, mobility and transfer as well as physical assistance with medication set up. (Hearing Summary)
8. On ██████████ 2016, Cheshire Regional Rehab Center submitted a fourth NF LOC screen to Ascend. Ascend approved the Appellant for 30 days of extended short term care due to his continued need with hand on assistance with dressing and verbal assistance with medication. (Hearing Summary)
9. On ██████████ 2016, Cheshire Regional Rehab Center submitted another NF LOC screening form to Ascend. Ascend approved the Appellant for 90 days short term care due to his continued hand on assistance with locomotion, bathing, dressing and personal hygiene and assistance with medication. (Hearing Summary)
10. On ██████████ 2016, Cheshire Regional Rehab Center submitted another NF LOC screening form to Ascend. The NF LOC detailed the Appellant's continued need of supervision with mobility and need of instrumental ADL assistance. (Hearing Summary)
11. On ██████████ 2016, Medical on site assessment was completed to assess the Appellant's medical condition. (Hearing Summary)
12. On ██████████ 2016, Dr. Susan Rieck; Ascend's Medical Director, conducted a review of the Appellant's medical condition. Dr. Rieck concluded that nursing facility placement for the Appellant was not medically necessary based on the Appellant's stabilized condition and his demonstrated independence with all of his ADL's. Dr. Rieck found the Appellant's needs could be met through a combination of medical, psychiatric, as well as social services delivered in a less restrictive setting. (Hearing Summary and Exhibit 7: level of care report)
13. On ██████████ 2016, Ascend issued a notice of action to the Appellant specifying that LOC is not medically necessary pursuant C.G.S. § 17b-259b(a) and as a result he

would not be eligible for nursing facility services funded by Medicaid effective [REDACTED] 2016. (Exhibit 5: Notice of action)

14. The Appellant's current medications include: Omeprazole 20mg, Bupropion XL, Duloxetine, Furosemide, Miralax, Allopurinol, Aspirin, Metoprolol, Simvastatin, Trazodone, Advair, Docusate sodium, Morphine Sulfate, Gabapentin, Alprazolam, Bisacodyl, Milk of Magnesia, Fleet Enema, Acetaminophen, Robitussin, Ipratropium, Oxycodone, surgical shoe for left shoe, Tubi Grips at bedtime, surepress to right lower extremity in morning, off at bedtime. ( Exhibit A: Routine medication Record, Cheshire Regional Rehab Center's LPN's testimony)
15. The Appellant has been ordered for physical therapy, three times a week for weeks for joint stiffness and muscle weakness. (Exhibit A: Physical Therapy Order)
16. The Appellant is at risk of fall due to decreased anterior fib strength, Asymmetrical stance, and discontinuity of steps, impulsive ambulation, inadequate ankle dorsiflexion and medication's impact on him. (Exhibit A: Physical Therapy Evaluation and Treatment plan, LPN's testimony)
17. The Appellant is fully oriented to self, place, and time. (Exhibit 10; and Appellant's testimony)
18. On [REDACTED] 2016 Cheshire Regional Rehab Centre submitted another NF LOC to Ascend. (Exhibit A: Medical plan, Treatment record, Routine Medication Record, Physical therapy order and therapy plan, behavior/intervention, physician's order sheet)
19. On [REDACTED] 2016, Ascend approved the Appellant for additional 120 days of short term care.(Exhibit 18: email from Ascend)

### **DISCUSSION**

Ascend issued a new Notice of Action approving nursing facility level of care services. There is no issue for this hearing officer to adjudicate.

**DECISION**

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

*Swati Sehgal*

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Swati Sehgal  
Hearing Officer

Cc: Kathy Bruni, Manager, Alternate Care Unit, DSS, Central Office  
Elizabeth Orejuela, Alternate Care Unit, DSS, Central Office  
Charles Bryan, Alternate Care Unit, DSS, Central Office  
Sheila McCloskey, Ascend Management Innovations  
Joni Barnett, Director of social services for Cheshire Regional Rehab Center

### **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 06105-3725.

### **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 06105-3725. 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.