

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

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

Client ID # ██████████
Request # 791415

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, Ascend Management Innovations LLC, (“Ascend”) the Department of Social Services’ (“Department”) vendor that administers approval of nursing home care, sent ██████████ (“the Appellant”) a notice stating that he does not meet the level of care criteria to reside in a nursing facility.

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 the 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 at Middlesex Health Care Center. The following individuals were present at the hearing:

██████████, Appellant
██████████, Appellant’s sister
██████████, Appellant’s mother
Karen Salwocki, Community Nurse Coordinator, D.S.S.
Charles Bryan, RN, Community Nurse Coordinator, DSS
Anne M. Rustic, Social Worker, Middlesex HCC
Amanda Mangiafico, Social Worker, Middlesex HCC
Sheila McCloskey, RN, Ascend a Maximus Company

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 [REDACTED] 2016, the Appellant was admitted to Middlesex Health Care, a skilled nursing facility, after a hospitalization stay from Middlesex Hospital. (Hearing Summary and Exhibit 14, Admission History and Physical Exam)
2. The Appellant's medical diagnosis at time of admission was chronic pulmonary disease, pneumonia and sepsis. The Appellant's medical history includes cystic fibrosis, COPD and asthma. (Hearing summary and hearing record)
3. The Appellant is 42 years old (DOB [REDACTED]/73) and a Medicaid recipient. (Exhibit #6, Ct. LTC level of Care determination form)
4. The Appellant has applied and has been accepted for the Money follows the Person program ("MFP"). (Appellant and Middlesex Health Care testimony)
5. On [REDACTED] 2016, Middlesex Health Care submitted a nursing facility ("NF") Level of Care ("LOC") screening to Ascend. The Appellant was found to be independent in all Activities of Daily Living ("ADL's) and capable of preparing his own meals with minimal assistance (set-ups, oversight or cueing). A level 1 screening was completed requiring a medical on sight assessment. (Exhibit 3, Hearing summary)
6. Activities of Daily living ("ADL's) measures include bathing, dressing, eating, toileting, continence, transferring and mobility. (Exhibit 4,CT ADL Measures and Measurements)
7. The Appellant is fully oriented to self, place, time and situation. (Hearing record)
8. Prior to the [REDACTED] 2016 submission of NF LOC, the Appellant had been granted two short term stays. The first short term stay was 60 days (expired on [REDACTED]/16) and the second was 180 days (expired on [REDACTED]/16). (Exhibit 3, Hearing summary)
9. On [REDACTED] 2016, a Medical on sight assessment was completed. (Exhibit 3, Hearing Summary)

10. On ██████████ 2016, Dr. Bill Regan MD; Psychiatrist for Ascend, conducted a review of the Appellant's medical condition and total needs. Dr. Regan concluded that nursing facility placement for the Appellant was not medically necessary because his condition does not require the continuous and intensive nursing services provided in a nursing facility as he is independent with his ADL's requiring minimal assistance of one for bathing and dressing. His needs could be met through a combination of medical, psychiatric and social services outside of the nursing facility setting. (Exhibit 5, Notice of Action ("NOA") and Exhibit 7, Level of Care report)
11. The Appellant does not have a psychological problem but admits to having anxiety and depression. (Appellant's testimony)
12. Ascends decision was based on the Appellant's physical health as they found the Appellant did not have any serious mental illness. (Ascends testimony)
13. On ██████████ 2016, Ascend issued a NOA to the Appellant indicating he no longer meets the medical criteria for nursing facility LOC therefore is not medically necessary. (Exhibit 5, Notice of Action)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. State regulation provide that "the department shall pay for an admission that is medically necessary and medically appropriate as evidenced by the following:
 - (1) Certification by a licensed practitioner that a client admitted to a nursing facility meets the criteria outlined in section 19-13-D8t (d) (1) of the Regulations of Connecticut State Agencies. This certification of the need for care shall be made prior to the department's authorization of payment. The licensed practitioner shall use and sign all forms specified by the department;
 - (2) the department's evaluation and written authorization of the client's need for nursing facility services as ordered by the licensed practitioner;

(3) a health screen for clients eligible for the Connecticut Home Care Program for Elders as described in section 17b-342-4(a) of the Regulations of Connecticut State Agencies;

(4) a preadmission MI/MR screen signed by the department; or an exemption form, in accordance with 42 CFR 483.106(b), as amended from time to time, for any hospital discharge, readmission or transfer for which a preadmission MI/MR screen was not completed; and

(5) a preadmission screening level II evaluation for any individual suspected of having mental illness or mental retardation as identified by the preadmission MI/MR screen.” Conn. Agencies Regs. Section 17b-262-707 (a).

3. State regulations provide that “Patients shall be admitted to the facility only after a physician certifies the following:
 - (i) That a patient admitted to a chronic and convalescent nursing home has uncontrolled and/or unstable conditions requiring continuous skilled nursing services and /or nursing supervision or has a chronic condition requiring substantial assistance with personal care, on a daily basis.” Conn. Agencies Regs. §19-13-D8t (d) (1) (A)

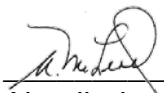
4. Section 17b-259b of the Connecticut General Statutes provides ((a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate 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.(b) 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.(c) 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.

5. Ascend correctly used clinical criteria and guidelines solely as screening tools.
6. Ascend correctly determined that the Appellant is independent with all his ADLs.
7. Ascend correctly determined the Appellant does not require continuous skilled nursing services for an uncontrolled or unstable chronic condition or supervision for a chronic condition requiring substantial assistance on a daily basis. The Appellant's needs can be met through a combination of medical and professional services outside of the nursing facility setting.
8. Ascend correctly determined that it is not medically necessary for the Appellant to reside in a skilled nursing facility because it is not clinically appropriate in terms of level of services provided and is not considered effective for his condition.
9. Ascend correctly issued the Appellant a NOA denying nursing facility level of care.

DECISION

The Appellant's appeal is DENIED


 Almelinda McLeod
 Hearing Officer

CC. Kathy Bruni, Alternate Care Director, DSS
 Charles Bryan , RN, CNC, Alternate Care Unit DSS
 Karen Salwocki, CNC, Alternate Care Unit, DSS
 Anne M. Rustic, Social Worker, Middlesex Health Care Center
 Amanda Mangiafico, Social Worker, Middlesex Health Care Center
 Sheila McCloskey, RN, Ascend a Maximus Company

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.

