

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

██████████ 2018
Signature Confirmation

Client ID # ██████████
Request # 119515

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, Ascend Management Innovations LLC, (“Ascend”) the Department of Social Services’ (“Department”) vendor that administers approval of nursing home care, sent ██████████ (“Appellant”) a notice stating that she does not meet the level of care criteria to be admitted to or reside in a nursing facility.

On ██████████, 2018, the Appellant requested an administrative hearing to contest Ascend’s decision.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████ 2018, 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 the ██████████ (“nursing facility”).

The following individuals were present at the hearing:

██████████, Appellant
██████████, Social Worker, ██████████
Charles Bryan, RN, Department of Social Services
Janice Ricciuti, RN, Department of Social Services
Jaimie Johnson, RN, Ascend Management Innovations, (By telephone)
Miklos Mencseli, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether Ascend Management Innovation's decision to deny that the Appellant meets the nursing home level of care criteria was correct.

FINDINGS OF FACT

1. On [REDACTED], 2017, the Appellant was admitted to [REDACTED] Hospital. (Exhibit 3: Ascend's Summary)
2. Prior to her admittance to the nursing facility, the Appellant lived in the community in a loft at her sister's house. (Testimony)
3. The Appellant's medical diagnoses at that time were: hypertension, diabetes mellitus type II, Post-Traumatic Stress Disorder, Anxiety Disorder, Opiate Use Disorder, pain and avascular necrosis of right hip, acute liver injury possible due to ibuprofen use, altered mental status, and anion gap metabolic acidosis. (Exhibit 3)
4. On [REDACTED] 2017, [REDACTED] Hospital submitted a NF LOC screen to Ascend to do determine whether the Appellant met the criteria for nursing facility level of care. (Exhibit 3)
5. At that time, the Appellant needed assistance with the following Activities of Daily Living ("ADL"): bathing, dressing, toileting, mobility, transferring and supervision with continence. (Exhibit 3)
6. On [REDACTED], 2017, the Appellant was admitted into [REDACTED] with a short term approval for sixty days. The approval expires on [REDACTED] 2017. (Exhibit 3, Exhibit 5: Level of Care Report)
7. On [REDACTED], 2017 [REDACTED] submitted a NF LOC screen to Ascend to do determine whether the Appellant met the criteria for nursing facility level of care. (Exhibit 3)
8. At that time, the Appellant needed assistance with the following Activities of Daily Living ("ADL"): bathing, dressing, toileting, mobility, and transfers and supervision with eating/feeding and continence. (Exhibit 3)
9. On [REDACTED] 2017, the Appellant received a short term approval for 180 days. The approval expires on [REDACTED], 2018. (Exhibit 3, Exhibit 5: Level of Care Report)

10. On [REDACTED] 2018, [REDACTED] submitted a NF LOC screen to Ascend to determine whether the Appellant met the criteria for nursing facility level of care. (Exhibit 3, Exhibit 8: LTC Level of Care Determination form)
11. At that time, the Appellant was independent of her Activities of Daily Living (“ADL”). For Instrumental Activities of Daily Living (“IADL”) the Appellant required total assistance with meal preparation (Exhibit 3, Exhibit 8)
12. On [REDACTED] 2018, Ascend determined that the Appellant did not meet the Connecticut Minimum Admission Criteria to be admitted or reside in a nursing facility. The Appellant does not require the intensive and continuous nursing services as delivered at the level of the nursing facility. (Exhibit 6: Level of Care Report)
13. On [REDACTED], 2018, Ascend issued a Notice of Action Denial of Nursing Facility Level of Care to the Appellant. (Exhibit 5: Notice of Action dated [REDACTED]-18)
14. The Appellant had hip replacement surgery in [REDACTED] 2018. (Testimony)
15. The Appellant has completed her rehabilitation and is currently not receiving rehab treatment. (Testimony)
16. The Appellant is independent with her ADL’s. (Testimony)
17. The Appellant is oriented to self, place, time, and situation. (Testimony)
18. The Appellant needs help with meal preparations as she cannot stand for long periods due to her diabetes. (Testimony)
19. The Appellant needs cueing for medications. She is learning how to self-medicate her insulin injections. (Testimony)
20. The Appellant would be eligible for services in the community including medication set-up through various agencies. (Testimony)
21. On [REDACTED], 2018, Ascend on behalf of [REDACTED] submitted a NF LOC screen to determine whether the Appellant met the criteria for nursing facility level of care. (Exhibit 3)
22. On [REDACTED] 2018, Ascend conducted an on-site Medical Review. It determined that the Appellant needed supervision for bathing and was independent for dressing, eating, toileting, continence, transferring and mobility. The Appellant was independent with set ups only for her

medications. Had no cognitive impairment and was orientated. (Exhibit 16: Ascend Medical Level of Care Evaluation)

23. On [REDACTED], 2018, Ascend issued a notice upholding its determination the Appellant does not require the intensive and continuous nursing services as delivered at the level of the nursing. (Exhibit 3)

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 regulations 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. .
 - (2) 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;
 - (3) the department’s evaluation and written authorization of the client’s need for nursing facility services as ordered by the licensed practitioner;
 - (4) 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; a preadmission MI/MR screen signed by the department; or an exemption form, in accordance with 42 CFR 483.106(b), as amended
 - (5) from time to time, for any hospital discharge, readmission or transfer for which a preadmission MI/MR screen was not completed; and
 - (6) 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. “The Department shall pay a provider only when the department has authorized payment for the client’s admission to that nursing facility.” Conn. Agencies Regs. Section 17b-262-707(b).
4. 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. Section 19-13-D8t (d) (1) (A).

5. Section 17b-259b of the Connecticut General Statutes states that "Medically necessary" and "medical necessity" defined. Notice of denial of services. Regulations. (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.
6. The Appellant has the physical ability to complete her ADLs. She needs help with meal preparation.
7. The Appellant is independent for her medications with set-ups. .

8. It is not clinically appropriate that the Appellant reside in a nursing facility.
9. Ascend Management Innovations is correct in its determination that the Appellant does not meet the medical criteria for nursing facility level of care.

DISCUSSION

Because the Appellant is independent with her ADLs and requires only help with meal preparations, she may live in a less restrictive setting in the community and receive home care services. The Appellant can self-medicate with some cueing and is learning to inject her insulin for her diabetes. The Appellant was diagnosed with Diastolic Disorder recently. This is a new medical condition. The facility would need to submit a new Level of Care request to Ascend. The Appellant is not working with Money Follows the Person ("MFP") as she is not active on medical. The facility is assisting the Appellant in trying to secure housing in the community. The Appellant has a pending application with [REDACTED].

Ascend was correct in their decision that the Appellant does not meet medical necessity criteria for nursing home level of care.

DECISION

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


Miklos Mencseli
Hearing Officer

C: Shirlee Shoute, Paul Chase, Lisa Bonetti, Laurie Filippini, Pam Adams,
Alternate Care Unit
Ascend Management Innovations

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, 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 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.

