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

[redacted] **2019**
Signature Confirmation

Client ID #[redacted]
Request # 143578

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2019, Ascend Management Innovations LLC, ("Ascend") the Department of Social Services' ("Department") vendor that administers approval of nursing home care, sent [redacted] ("the Appellant") a notice stating that she does not meet the level of care criteria to be admitted or reside in a nursing facility.

On [redacted] 2019, the Appellant requested an administrative hearing to contest Ascends' decision.

On [redacted] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2019.

On [redacted] 2019, 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 [redacted]. The following individuals were present at the hearing:

[redacted], Appellant
[redacted], Social Worker, [redacted]
Pat Jackowski, Registered Nurse, Community Options, Dept. of Social Services
Jaimie Feril, Registered Nurse, Ascend/ Maximus via telephone
Almelinda McLeod, Hearing Officer

On [redacted] 2019 the hearing record was closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether Ascends' decision that the client does not meet the skilled nursing level of care criteria to reside in a skilled nursing facility was correct.

FINDINGS OF FACT

1. On [redacted] 2019, the Appellant was admitted into the [redacted] and [redacted] with a diagnosis of unspecified fracture of skull, Epidural and Traumatic subdural hemorrhage, loss of consciousness of unspecified duration, Thrombocytopenia, Methemoglobinemia, Hypokalemia, Alcohol dependence, cocaine use, depression, COPD and Scoliosis. (Hearing summary & Exhibit 6- Preadmission screening and resident review and Appellant testimony)

2. On [redacted] 2019, the facility submitted a Nursing facility ("NF") level of Care (" LOC") evaluation form to Ascend. (Hearing summary)

3. Ascend is the Department's contractor that determines if a patient meets the nursing home LOC criteria to authorize Medicaid payment. (Hearing record)

4. The screen indicated that the Appellant needed hands-on assistance with all Activities of daily living (ADL's) and was capable of meal preparation with minimal assistance in his incidental Activities of daily living ("IADL"). (Hearing summary)

5. The ADL measures include bathing, dressing, toileting, continence, transferring and mobility. (Exhibit 4- ADL Measures and Rates)

6. On [redacted], 2019, Ascend approved a short term stay for 90 days that was to expire on [redacted] 2019. (Exhibit 7, Ct LOC determination form)

7. On [redacted] 2019, the facility submitted another NF LOC evaluation to Ascend. he Appellant was independent in all ADL's and was capable of meal preparation with minimal assistance. Based on this report, the Appellant required a level I screen. (Hearing summary)

8. On [redacted] 2019, Ascend reviewed the Appellant under the level I screen which resulted that the Appellant required an on-site Level II screening. (Exhibit 7, Ct. LOC determination form)

9. On [redacted] 2019, the Appellant was evaluated for an on-site Level II screening. The results were that the Appellant was independent in all her ADL's and her needs could be met in the community with appropriate supports. (Hearing summary and Exhibit 8)

10. The supports that the Appellant would need would include home health aide and nurse, therapy evaluation, home evaluation for safety, meals on wheels, family supports, case management, arranged public transportation, training in self- health care management, psychiatric services, and specialist follow up. (Hearing summary)

11. Ascend's Medical Doctor , Dr. Bill Regan evaluated all reports and medical documentation and concluded that skilled nursing facility was not medically necessary for the Appellant as it was not clinically appropriate in terms of level of service provided, not considered effective for her condition and does not need continual and intensive nursing care provided in a skilled nursing facility. (Hearing summary)

12. On [redacted] 2019, Ascend issued a Notice of Action to the Appellant stating that based on a comprehensive assessment and the Appellant's medical condition, nursing facility LOC was not medically necessary because it is not considered effective and was not clinically appropriate in terms of level. Her needs could be met in a less restrictive setting. (Exhibit 5)

13. The Appellant has headaches, is forgetful, gets dizzy and needs prompting to take her medications. The Appellant wants to stay longer until she is able to speak and think more clearly so that she can heal quicker and until she is ready to move. (Appellant testimony)

14. The Appellant had a cane; which is lost and is currently borrowing a walker. The Appellant likes the walker because it keeps her balanced, but would like a walker with a seat so that she can rest when she gets tired. (Appellant testimony)

15. The Appellant is currently active with Money follows the person program and awaiting appropriate housing. (Appellant testimony)

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. Connecticut Agencies Regulations (Conn. Agencies Regs.) Section 17b-262-707 (a). provides 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. 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.”

3. Conn. Agencies Regs. § 19-13-D8t (d) (1) (A). provides 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.”

4. Section 17b-259b of the Connecticut General Statures 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.

5. Ascend correctly used clinical criteria and guidelines solely as screening tools.

6. Ascend correctly determined that the Appellant is independent with all of his ADL’s.

7. Ascend correctly determined that based on the evidence, the Appellant does not have a chronic medical condition requiring substantial assistance with personal care on a daily basis.

8. Ascend correctly determined that based on the evidence, the Appellant does not have uncontrolled and/or unstable medical conditions requiring continuous skilled nursing services and /or nursing supervision.

9. Ascend correctly determined that the Appellants stay at the SNF is not clinically appropriate in terms of the level of services nor considered effective for the individual's illness, injury or disease.

10. Ascend correctly determined that nursing facility services are not medically necessary for the Appellant, because her medical needs could be met with a combination of medical, psychiatric and social services delivered in a less restrictive setting out in the community.

11. Ascend correctly determined that it is not medically necessary for the Appellant to reside in a skilled nursing facility

DISCUSSION

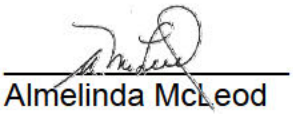
The Appellant is not requesting to stay at the facility for a long time as she would like to go back to the community; however, she does not feel confident that she can achieve self-sufficiency on her own right now. She is requesting to stay a little while longer as she heals and until she feels she is ready.

The Appellants' concerns with possible homelessness, relapse of alcohol abuse, fear of having a seizure where she may fall, are all legitimate concerns; however, none of those concerns can be ameliorated by an extended stay in a skilled nursing facility.

The nursing home and ASCEND have recognized her concerns and addressed them in their report; which described the kinds of services she can receive in the community. The Appellant is independent in all her ADL's and only requires minimum assistance with preparing a meal. It should be noted, that she is actively working with Money follows the person to find an apartment appropriate for her.

DECISION

The Appellant's appeal is DENIED



Almelinda McLeod
Hearing Officer

CC: Pat Jackowski, Community Options Unit, Department of Social Services
Shirlee Stoute, Community Options Unit, Department of Social Services
Paul Chase, Community Options Unit, Department of Social Services
Laurie Filippini, Community Options Unit, Department of Social Services
Pam Adams, Community Options Unit, Department of Social Services
Angela Gagen, Ascend Management Innovations/Maximus
Joi Shaw, Ascend Management Innovations/Maximus
Connie Tanner, Ascend Management Innovations/Maximus
Jaimie Feril, Ascend Management Innovations/Maximus

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.