

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

██████████, 2020
Signature Confirmation

Client ID # ██████████
Request # 153301

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, 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 be admitted or reside in a nursing facility.

On ██████████ 2020, the Appellant requested an administrative hearing to contest Ascend’s decision to discontinue nursing home LOC.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, 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
██████████, Director of Social Services, ██████████
██████████ Director of Nursing, ██████████
Jan Ruccutti, Community Nurse Coordinator, Community Options, DSS
Paul Cook, Registered Nurse, Ascend a Maximus Company
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether Ascend's decision that the client does not meet the skilled nursing level of care criteria for a long term placement was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Appellant was admitted into the [REDACTED] [REDACTED] from [REDACTED] Hospital with an admitting diagnosis of Bilateral lower extremity pain, Cellulitis, Diabetes, Hypertension, Hyperlipidemia. (Hearing record)
2. The Appellant is [REDACTED] years old. He has no friends or family in the community. (Appellant testimony)
3. On [REDACTED] 2018, the Appellant's Activities of Daily Living (ADL's) supports needs indicated he required hands on assistance with bathing, toileting, mobility and transferring. For his Instrumental Activities of Daily Living ("IADL's"), he was capable of preparing meals with minimal assistance. Based on this review, he was approved for short term stay of 90 days; which was to expire on [REDACTED] 2019. (Hearing summary)
4. The ADL measures include bathing, dressing, eating/feeding, toileting, continence, transferring and mobility. (Exhibit 4, ADL measures & Rates)
5. The Appellant did not receive any physical therapy, respiratory therapy or occupational therapy. (Hearing record)
6. On [REDACTED], 2019, a Nursing Facility ("NF") Level of Care ("LOC") or NF LOC was submitted, the Appellant was approved for a short term stay of 60 days which was to expire on [REDACTED] 2019. (Hearing record)
7. On [REDACTED] 2019, a NF LOC was submitted; the Appellant was approved for a short term stay of 60 days which was to expire on [REDACTED], 2019. (Hearing record)
8. On [REDACTED] 2019, a NF LOC was submitted; the Appellant was approved for a short term stay of 90 days which was to expire on [REDACTED], 2019. (Hearing record)
9. On [REDACTED], 2019, a NF LOC was submitted; the Appellant was approved for a short term stay of 90 days which was to expire on [REDACTED], 2019. (Hearing record)

10. [REDACTED], 2019, a NF LOC was submitted, the Appellant was approved for a short term stay of 60 days which was to expire on [REDACTED] 2020. (Hearing record)
11. On [REDACTED] 2020, a NF LOC was submitted, the Appellant was found to be independent in all his ADL's and capable of preparing meals with minimal assistance. Based on this review a Medical review was required. (Hearing summary, Exhibit 14, ADL chart and Exhibit 15, Section G-Functional Status/ ADL coding)
12. On [REDACTED] [REDACTED], 2020, Ascend's medical doctor, Bill Regan MD conducted a medical review using the following medical data - *NFLOC screen, Practitioner Certificate, PRN Medications and Treatments Administration history, Point of Care ADL Report, Minimum Data Set, Progress Notes, General administration history and Medication Administration history*. (Exhibits 6,7,8,9,10,11,12,13 14 15,16 and 17)
13. On [REDACTED], 2020, Dr. Regan concluded that the NF LOC is not medically necessary because it was not clinically appropriate in terms of the level of service provided and is not considered effective for his condition and his needs could be met in the community with appropriate supports. (Hearing record, Exhibits 5 NOA and 6 LOC report)
14. On [REDACTED] 2020, Ascend issued a Notice of Action to the Appellant informing the Appellant that based on a comprehensive assessment and his medical condition, it was determined that NF LOC was no longer medically necessary for him at the time because it was not considered effective nor clinically appropriate in terms of the level of service. (Hearing summary, Exhibit 5, NOA)
15. The Appellant acknowledged independence with all his ADL's and not receiving any current treatment with the NF. However, he feels he needs to stay in the NF for another 3 months because of his neuropathy and pain in both feet. He needs the assistance of a walker to get up from his bed and move around the facility. The Appellant also wants the NF to check his blood sugars and administers his medications timely. (Hearing record and Appellant's testimony)
16. The supports suggested for the Appellant would be to provide weekly skilled nursing to monitor his vitals and glucose levels and he will be given a glucometer to check his blood sugars. The Appellant received training with a glucometer while at the facility. Also, to schedule appointments with a new physician (Exhibit 6, NF Director of Social Services and NF Director of Nursing testimony)

17. The Appellant is currently active with Money follows the Person and was just approved for an apartment in [REDACTED], Connecticut. (Hearing record and NF Director of Social Services)
18. As of this date of this hearing, the Appellant was unaware he was approved for this apartment in [REDACTED] Connecticut through Money follows the Person. (Appellant testimony)
19. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to “not later than 120 days “ after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated [REDACTED] 2020. The Appellant requested an administrative hearing on [REDACTED] 2020; therefore this decision is due no later than [REDACTED] 2020 and is therefore timely.

CONCLUSIONS OF LAW

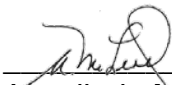
1. Section 17b-2 (6) of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Title 42 CFR 441.505 defines activities of daily living (“ADLs”) as basic personal everyday activities, including but not limited to tasks such as eating, grooming, dressing, bathing and transferring.
3. Conn Agencies Regs. § 19-13-D 8 t (d) (1) (A) provides 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. Regulations of Connecticut State Agencies (“Regs. Conn.State Agencies”) § 17b-262-707 (a) provides 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-D 8 t (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*.
5. Conn. Gen. Stat. § 17b-259b 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.
6. Ascend correctly used clinical criteria and guidelines solely as screening tools.

7. Ascend correctly determined that the Appellant is independent with all of his ADL's.
8. 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.
9. 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.
10. 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 condition.
11. Ascend correctly determined that it is not medically necessary for the Appellant to remain in a skilled nursing facility because his medical needs could be met with a combination of medical, psychiatric and social service delivered in a less restrictive setting out in the community.

DECISION

The Appellant's appeal is DENIED.



Almelinda McLeod
Hearing Officer

CC: hearings.commops@ct.gov
AngelaGagen @maximus.com
ConnieTanner@maximus.com
JamieSFeril@maximus.com
Paul Cook @ maximus.com

██████████, Director of Social Service, ██████████

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.