

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 #: ██████████
HEARING ID #: 706683

NOTICE OF DECISION

PARTY

Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") through its administrative service organization, Community Health Network of Connecticut, Inc. ("CHNCT"), sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying a prior authorization request for custom foot orthotics for her grandchild, ██████████ (the "child") as not medically necessary pursuant to Section 17-b-259b(a)(5) of the Connecticut General Statutes..

On ██████████ 2015, the Appellant requested an administrative hearing to contest the denial of custom foot orthotics for the child.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2015.

The administrative hearing was rescheduled several times at the Appellant's request. On ██████████ 2015, OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, in accordance with sections 17b-60, 17b-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
Robin Goss, CHNCT Representative
Sybil Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's denial of prior authorization for custom foot orthotics for the child as not medically necessary was correct.

FINDINGS OF FACT

1. The Appellant is the child's grandmother. (Hearing Record)
2. The child is six years old (DOB ████████/09) and is a participant in the Medicaid program, as administered by the Department. (Appellant Testimony, Hearing Record, Exhibit 1: Prior Authorization Request, ████████/15)
3. The Appellant took the child to see a podiatrist because she complained of pain in her feet. (Appellant's Testimony)
4. On ████████ 2015, CHNCT received a prior authorization request from Dr. Robert P. Matusz, for custom foot orthotics for the child. (Exhibit 1)
5. Dr. Robert P. Matusz is the child's Podiatrist (the "treating podiatrist"). (Exhibit 1)
6. The child is diagnosed with plantar fasciitis due to pes planus and suffers severe pain and difficulty with ambulation and wearing shoe gear. (Exhibit 1)
7. The child's gait analysis indicates that she has instability with regular shoes without orthotics. (Exhibit 1)
8. The child wears sneakers without temporary orthotics. (Exhibit 11: Medical Review Notes, ████████/15)
9. The treating podiatrist measured the child's feet for temporary orthotics but the child never received temporary inserts, nor did the Appellant receive any education materials. (Appellant's Testimony)
10. The child does not participate in a specific exercise program directed by her treating podiatrist. (Appellant's Testimony)
11. On ████████ 2015, CHNCT sent the Appellant a NOA indicating that custom foot orthotics for the child were denied because based on the information it

received from the treating podiatrist custom foot orthotics are not medically necessary. (Exhibit 3: Notice For Denied Services or Goods, ██████/15)

12. On ██████ 2015, the Appellant requested an administrative hearing to contest CHNCT's denial of custom foot orthotics for the child. (Exhibit 4: Appeal and Administrative Hearing Request Form for Denied Services or Goods.)

13. On ██████ 2015, CHNCT sent the treating podiatrist a notice requesting the following information by ██████ 2015 in order to determine medical necessity:

- What is the child's foot/ankle/forefoot muscle strength, range of motion?
- Does the child have any deformities or asymmetries?
- Please provide observational gait assessment (swing and stance phase).
- What was the outcome of temporary orthotics and response to plantar fascia stretching.
- Letter of Medical Necessity supporting the medical need for custom foot orthotics for the child

(Exhibit 6: Medical Record Request to Dr. Robert P. Matusz, ██████/15)

14. On ██████ 2015, CHNCT sent the treating podiatrist another request for additional medical information by ██████ 2015. (Exhibit 8: Medical Record Request, ██████/15)

15. On ██████ 2015, concluded again that custom foot orthotics were not medically necessary. The custom foot orthotics are not clinically appropriate for the child because the child's impairment could possibly be addressed with other types of supportive shoes or sneakers, over-the-counter insoles and a home exercise program guided by a podiatrist. (Exhibit 11)

CONCLUSIONS OF LAW

1. The Department is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-2; Conn. Gen. Stat. §17b-262]
2. 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. [Conn. Gen. Stat. § 17b-259b (a)]

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. [Conn. Gen. Stat. 17b-259b (b)]

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. [Conn. Gen. Stat. 17b-259b (c)]

The Department of Social Services shall amend or repeal any definitions in the regulations of Connecticut state agencies that are inconsistent with the definition of medical necessity provided in subsection (a) of this section, including the definitions of medical appropriateness and medically appropriate, that are used in administering the department's medical assistance program. The commissioner shall implement policies and procedures to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal not later than twenty days after implementation. Such policies and procedures shall be valid until the time the final regulations are adopted. [Conn. Gen. Stat. 17b-259b (d)]

3. CHNCT correctly determined that the Appellant did not provide medical documentation to establish custom foot orthotics are medically necessary for the child.

4. CHNCT correctly denied the prior authorization request for the child because there is insufficient evidence to establish that custom foot orthotics are medically necessary.

DECISION

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


Sybil Hardy
Hearing Officer

Pc: Appeals@CHNCT.org

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 060105-3725.

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.