

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

██████████ 2016
SIGNATURE CONFIRMATION MAIL

REQUEST #743712

CLIENT ID # ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, Community Health Network of Connecticut (“CHNCT”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a prior authorization request for approval of comprehensive BRCA genetic testing.

On ██████████ 2015, the Appellant requested an administrative hearing to contest CHNCT’s denial of her prior authorization request for approval of BRCA genetic testing.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an 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.

The following individuals were present at the hearing:

██████████ Appellant
Rosa Maurizio, RN, Clinical Quality Analyst, Representative for CHNCT
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's denial of a prior authorization request for approval of Medicaid coverage for BRCA genetic testing was correct in accordance with state statutes and regulations.

FINDINGS OF FACT

1. The Appellant is a recipient of medical assistance under the Medicaid (Husky A) program. CHNCT is the Department of Social Services' ("DSS") administrative services organization ("ASO"). (Hearing record)
2. On [REDACTED] 2015, CHNCT received a prior authorization request from Counsyl Inc. for comprehensive BRCA genetic testing. (Authorization Request – CHNCT's exhibit 1)
3. In its request for prior authorization of payment for BRCA genetic testing, Counsyl provided the following clinical statement: "Family history of Lung Cancer, Family history of breast cancer, Other, Other: Z80.3". (CHNCT's exhibit 1)
4. On [REDACTED] 2015, the Medical Director for CHNCT reviewed the Appellant's prior authorization request and determined that the Appellant did not meet the HUSKY Health Provider Policies and Procedures criteria for BRCA genetic testing. (Medical Review/Care Enhance Manager Note Detail - CHNCT's exhibit 2)
5. On [REDACTED] 2015, CHNCT sent a Notice of Action to the Appellant advising her that the prior authorization request received from her provider for approval of BRCA genetic testing was denied as not medically necessary, because it does not meet generally accepted standards of care. (NOA dated [REDACTED] 2016 – CHNCT's exhibit 3)
6. The Appellant is thirty-three years old. Her date of birth is [REDACTED] 1982. (CHNCT's exhibit 1, Appellant's testimony)
7. The Appellant's diagnoses include: allergic rhinitis, allergies (seasonal), anxiety disorder, hypothyroidism, interstitial cystitis, mild mood disorder, tobacco abuse, obesity. (United Community and Family Services, Inc. Progress Notes – CHNCT's exhibit 15)
8. The Appellant's sister gets ovarian cysts, her two great-aunts had ovarian cancer, her grandfather had small cell cancer, and her "Nana's" sister was diagnosed with breast cancer in her 60's. (Appellant's testimony)
9. The Appellant does not know her biological father, therefore; she does not know her paternal medical history. (Appellant's testimony)

10. On [REDACTED] 2016, CHNCT requested additional information from the Appellant's gynecologist relative to her request for an appeal. (Medical record request – CHNCT's exhibit 6)
11. On [REDACTED] 2016, CHNCT requested additional information from the Appellant's APRN relative to her request for an appeal. (Medical record request – CHNCT's exhibit 7)
12. During the period of [REDACTED] 2016 – [REDACTED] 2016, CHNCT received clinical information from the Appellant's medical providers relative to her request for an appeal. (Clinical information – CHNCT's exhibits 8-10, 15)
13. The record contains no clinical documentation that the Appellant has a personal history of cancer. (CHNCT's exhibits 8, 15, Hearing record)
14. On [REDACTED] 2016, CHNCT submitted the Appellant's clinical information in an appeal packet for a medical review. (Medical Review request – CHNCT's exhibit 16)
15. On [REDACTED] 2016, CHNCT issued a notice to the Appellant upholding its denial of her request for authorization for payment of BRCA genetic testing. The notice stated that the principle reason for the denial was the requested BRCA testing does not meet generally accepted standards of care. (Notice dated [REDACTED] 2016 – CHNCT's exhibit 18)

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. Medicaid pays for Medicaid-covered services that are medically appropriate and medically necessary. Conn. Agencies Regs. 17b-262-531.
3. 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)]

4. 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)]
5. Based upon the information presented, CHNCT correctly determined that the Appellant does not have a personal history of cancer.
6. Generally accepted standards of medical practice and guidelines provide that genetic testing is considered medically necessary in individuals who meet the following criteria: An individual without a personal history, but with family history of:
 1. A first or second-degree blood relative who meets any of the high risk criteria specified in A through F above, or
 2. Two third-degree blood relatives or closer with breast cancer (with at least one of the two having breast cancer at 50 years or younger) and/or ovarian cancer. [Provider Policies and Procedures: BRCA Genetic Testing
7. Based upon the information presented, CHNCT correctly determined that the Appellant's family history of cancer does not meet the criteria of a first or second-degree relative meeting high risk criteria, or two third degree relatives or closer with breast cancer, one of which was afflicted at age 50 or younger.
8. CHNCT correctly determined that BRCA mutation testing is not clinically appropriate.
9. CHNCT correctly determined that the information provided does not demonstrate medical necessity for the requested BRCA genetic testing.
10. State regulation provides that the Department shall not pay for the following goods or services related to the following: (12) any procedures or services of an unproven, educational, social, research, or experimental or cosmetic nature; any diagnostic, therapeutic or treatment services in excess of those deemed medically necessary by the department to treat the client's condition or services not directly related to the client's diagnosis, symptoms or medical history. [Conn. Agencies Regs. §17b-262-342]

11. CHNCT correctly determined that the requested BRCA genetic testing procedure for the Appellant is experimental, investigational, and unproven in her clinical, family history, and oncological context.
12. CHNCT correctly denied the Appellant's prior authorization request for approval of BRCA genetic testing as not medically necessary, pursuant to statute.

DISCUSSION

The Appellant testified that she does not know her father and does not know his medical history. She stated that because she does not know her paternal medical history, she might meet the criteria for testing.

I have reviewed the regulations that pertain to the prior authorization of payment for BRCA genetic testing and I agree with CHNCT's determination that the Appellant does not meet the criteria for authorization of payment.


The Appellant has no history of cancer. The Appellant's family members that have had cancer, are not of the degree that qualifies her and/or did not have the type and severity of cancer that would qualify her for payment of the requested test.

The medical documentation failed to demonstrate that BRCA genetic testing is medically necessary for the Appellant.

There is no evidence in the record demonstrating that BRCA genetic testing for the Appellant is supported by authoritative, peer-reviewed, published literature, is consistent with generally accepted standards of medical practice in medical genetics and oncology, is clinically appropriate in her personal and family history context, represents the standard of care in medical genetics and oncology, is likely to refine her prognosis, guide her future medical care, improve her general health, or extend her lifespan.

DECISION

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


Pamela J. Gonzalez
Hearing Officer

Copy: Rosa Maurizio, RN, Clinical Quality Analyst, CHNCT

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 06105-3725.

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, CT06105. 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.