

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

CLID: ██████████  
Request: 765867

NOTICE OF DECISION

PARTY

██████████  
C/O ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department"), through its Administrative Service Organization, Community Health Network of Connecticut ("CHNCT") sent ██████████ (the "Appellant"), a notice of action ("NOA") that stated that her medical provider's request for authorization of complex nursing ("CN") care for an additional 10 hours per day had been denied. The notice stated that the Plan had approved complex nursing care for 12 hours per day.

On ██████████ 2016, the Appellant's father and Authorized representative requested an administrative hearing to contest the Department's determination that his daughter was ineligible for complex nursing care of 22 hours per day.

On ██████████ 2016 the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2016.

On ██████████ 2016, the Appellant requested her administrative hearing be rescheduled.

On ██████████ 2016, OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the Department held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], Appellant  
 [REDACTED], the Appellant's spouse  
 Tammy Senderoff, Department of Developmental Disabilities  
 Rosa Maurizio, RN, Community Health Network of Connecticut representative  
 Heather Lapointe, Team Lead, Community Health Network of Connecticut, witness  
 Scott Zuckerman, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CHNCT was correct to deny a prior authorization request for an approval for Medicaid coverage for an additional 10 hours per day of complex nursing care from 12 to 22 hours for the period of [REDACTED] 2016 through [REDACTED] 2016.

### **FINDINGS OF FACT**

1. The Appellant is the father of [REDACTED]. (Hearing Record)
2. [REDACTED] (D.O.B. [REDACTED]/91) is a recipient of medical assistance under the Medicaid program. (Hearing Record)
3. [REDACTED] resides with the Appellant, the Appellant's spouse, and her siblings. (Hearing record)
4. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of CN services. (Hearing Record)
5. [REDACTED] was approved and receiving CN for 84 hours per week for the Certification Period from [REDACTED] 2016 through [REDACTED] 2016. (Exhibit 2: Home Health Certification and Plan of Care, [REDACTED] 2016)
6. On [REDACTED] 2016, CHNCT received an Outpatient prior Authorization Request Form, from Pediatric Services of America ("PSA") for an additional 10 hours per day of CN hours or 22 hours per day from the period of [REDACTED] 2016 through [REDACTED] 2016. (Exhibit 1: Outpatient Authorization Request Form, [REDACTED]/16)
7. The Appellant requested additional hours for a finite time frame while [REDACTED] sister was hospitalized. [REDACTED] sister receives 161 hours weekly of CN care. The sister's nurse provides care to the [REDACTED] during the night shift for safety precaution, seizures, and aspiration precautions. (Appellant's Testimony, Exhibit 1: Outpatient Prior Authorization Request Form)
8. The nurse, [REDACTED], who provides care for the night shift for the [REDACTED] sister, [REDACTED] is available to provide care to any of the siblings that require it. (Exhibit 12: Letter from [REDACTED], RN, PSA Healthcare)

9. From ██████████ 2016 through ██████████ 2016, ██████████ did not have any changes in her medical condition. (Hearing Record)
10. From ██████████ 2016 through ██████████ 2016, ██████████ did not have a sick plan in place for additional CN hours. (Hearing Record)
11. ██████████ current diagnosis includes cerebral palsy, blindness, ██████████, malformation, Ventriculoperitoneal Shunt (VP Shunt), and incontinence. (CHNCT Testimony and Exhibit 2: Home Health Certification and Plan of Care, ██████████/16)
12. The Appellant and the healthcare agency determine how daily CN hours are to be utilized. (CHNCT's testimony)
13. PSA provided the additional hours of CN services during the time frame that ██████████ sister was hospitalized; however, payment was denied. (CHNCT testimony)
14. On ██████████ 2016, CHNCT reviewed documentation provided and denied the request for additional hours of CN services as there was no documentation of any change in medical condition or needs for the period of ██████████ 2016 through ██████████ 2016. (Hearing Record)
15. On ██████████ 2016, CHNCT sent the Appellant a Notice of Action, denying additional 10 ours of CN services for the reason, "It is not the right amount of service for your child and there has been no significant change to your child's medical condition or personal care needs". (Exhibit 5: Notice of Action, ██████████/16)
16. On ██████████ 2016, CHNCT sent letters to ██████████ healthcare providers requesting clinical documentation and letters of medical necessity. (Hearing Record)
17. On ██████████ 2016, CHNCT reviewed medical documentation provided for the appeal review and denied the request for additional hours of CN services as there was no documentation of any change in the acuity of the member's condition. (Exhibit 18: Letter dated ██████████/16)

### **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. The Department shall pay for medically necessary home health care services provided by home health care agencies that are directly related to the client's diagnosis, symptoms, or medical history. These services include: nursing care services such as physical nursing care or the teaching of nursing care, including, but not limited to, direct services such as enemas, irrigations, dressing changes, treatments, and administration and supervision of medication. [Conn. Agencies Regs. §17b-262-728(a); Conn. Agencies Regs. §17b-262-729]
4. CHNCT was correct when it denied the request for an additional 10 hours of CN services for ██████ while the Appellant's other child was hospitalized and CN services were not authorized for ██████ during the overnight hours.

### DECISION

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

  
Scott Zuckerman  
Hearing Officer

Pc: CHNCT  
Fatmata Williams, DSS

### **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, 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.