

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 #: 766155

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") through its managed care administrator Community Health Network of Connecticut, Inc. ("CHNCT"), sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her prior authorization request for a breast reduction.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the denial of her request for a breast reduction.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("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, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant
Fabiola Goin, RN, CHNCT Clinical Quality Analyst
Shelley Starr, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny the Appellant's prior authorization request for a breast reduction was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is 24 years old, (DOB █████/91). (Exhibit 1: Prior authorization request; Appellant's Testimony)
2. The Appellant is a Medicaid recipient with coverage through CHNCT. (Hearing Summary; Appellant's Testimony)
3. On █████ 2016, CHNCT received a prior authorization request from Dr. John Reilly, Board Certified Plastic Surgeon, for reduction mammoplasty (breast reduction surgery), for a diagnosis of symptoms of neck, back and shoulder pain due to breast hypertrophy. (Exhibit 1: Prior authorization request)
4. The Appellant has breast hypertrophy and macromastia, which is an abnormally large volume of breast tissue. (Exhibit 1: Prior Authorization request; Department's Testimony)
5. The Appellant has back, shoulder and neck pain. The Appellant experiences shoulder grooving and irritation at times. (Appellant's Testimony; Hearing Record)
6. The Appellant is not currently being treated by a physician for any irritation or rash issues. (Appellant's Testimony; Hearing Record)
7. The Appellant tried a specialized support garment once, but felt uncomfortable wearing it. (Appellant's Testimony)
8. The Appellant has been recommended for weight loss, but has not consulted a dietician or nutritionist for counseling. (Hearing Record; Appellant's Testimony)
9. The Appellant goes to the gym four to five times per week and when exercising, has difficulty bending and walking three mile distances. (Appellant's Testimony)
10. The Appellant has three places of employment and is able to perform her job duties without any restrictions. (Appellant's Testimony)

11. The Appellant does not have any other impacts with her activities of daily living. (Hearing Record; Appellant's Testimony)
12. The Appellant does not take any over the counter or prescribed medications for her pain. (Appellant's Testimony)
13. The Appellant has not received any recent physical therapy and has not received any treatment by her Chiropractor for over two months. (Hearing Record; Appellant's Testimony)
14. The Appellant was referred for an MRI test, however the MRI has not been scheduled. (Appellant's Testimony)
15. On [REDACTED] 2016, CHNCT denied the request for authorization for a breast reduction as it was not medically necessary. (Exhibit 4: Notice of Action, [REDACTED] 2016)
16. On [REDACTED] 2016, the Appellant requested an Appeal of CHNCT's decision. (Exhibit 5: Hearing request, [REDACTED] 2016)
17. On [REDACTED] 2016, CHNCT requested additional medical documentation supporting the medical necessity of the procedure from the Appellant's plastic surgeon, primary care provider and chiropractor. (Hearing Summary; Exhibits 7,8 & 9 Medical Record Requests)
18. On [REDACTED] 2016, CHNCT received from the Appellant colored photos and a Letter of Medical Necessity signed by the Appellant's Chiropractor on [REDACTED] 2016. The letter of Medical Necessity supports the recommendation for the Appellant as a candidate for breast reduction surgery, which would help minimize and alleviate some of the Appellant's chronic upper back and neck pain. (Hearing Summary; Exhibit 10 & 11: photos and Letter of Medical Necessity dated [REDACTED] 2016)
19. On [REDACTED] 2016, CHNCT received from the Appellant's primary care provider, medical notes. The medical notes outline the Appellant's office visits from [REDACTED] 2015 through [REDACTED] 2016. Medical notes dated [REDACTED] 2015 outline the Appellant's office visit for back pain. PCP recommended physical therapy; discussed reduction mammoplasty due to suspect large breasts causing mid-back pain. Medical notes dated [REDACTED] 2015, outline the Appellant's office visit for back pain and breast hypertrophy. The Appellant did not follow up with physical therapy. PCP recommended physical therapy and to contact surgeon. Medical notes dated [REDACTED] 2016 outline the Appellant's office visit for back pain and breast hypertrophy. The Appellant was counseled on therapeutic lifestyle changes and made aware of her unhealthy weight. Appellant had

consulted with a plastic surgeon. MRI was ordered. (Hearing Summary; Exhibit 15: Dr. Bergwerk's office notes, faxed [REDACTED] 2016)

20. On [REDACTED], 2016, after a second review, CHNCT upheld the denial. CHNCT's rational of the denial states that the information does not support the medical necessity for breast reduction because the documents provided do not clearly show symptoms attributable to macromastia are affecting activities of daily living or that an adequate trial of appropriate medical therapy has failed. (Exhibit 17: Determination letter, [REDACTED] 2016)

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. Connecticut State Agencies Regulation § 17b-262-341 (1) provides the department shall pay providers: (1) only for those procedures that are medically necessary to treat the client's condition.
4. State regulation provides that the department shall not pay for the following (4) cosmetic surgery [Conn. State Agencies Regs. § 17b-262-342 (4)]
5. The Appellant did not demonstrate that she attempted to alleviate her pain and symptoms with less costly alternative medical management services that may produce therapeutic results including physical therapy, weight loss, NSAIDS and anti-inflammatory medications, topical treatments and other alternative support garments.
6. The Appellant did not establish that breast reduction surgery is medically necessary; she did not show that surgery is clinically appropriate as the right type of treatment that would be effective for her condition.
7. CHNCT's decision to deny the Appellant's prior authorization request for a breast reduction is correct.

DECISION

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



Shelley Starr
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.