

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

██████████ 2017  
SIGNATURE CONFIRMATION

CLIENT ID #: ██████████  
HEARING ID #: 807348

NOTICE OF DECISION

PARTY

Re: ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, Community Health Network of Connecticut, Inc. ("CHNCT"), sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying a prior authorization request for a spinal orthosis [a brace] for his child, ██████████ ██████████ as not medically necessary pursuant to Section 17-b-259b(a)(5) of the Connecticut General Statutes..

On ██████████ 2017, the Appellant requested an administrative hearing to contest the denial of spinal orthosis for ██████████

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, 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  
Rosa Maurizo, CHNCT Representative  
Sybil Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2017, the hearing record closed.

### STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT correctly denied [REDACTED] prior authorization request for a spinal orthosis for [REDACTED] as not medically necessary.

### FINDINGS OF FACT

1. The Appellant is the father of the child, [REDACTED] (Hearing Record, Appellant's Testimony)
2. [REDACTED] is 14 years old (DOB [REDACTED]/02) and is a participant in the Medicaid program, as administered by the Department. (Appellant's Testimony, Hearing Record, Exhibit 1: Prior Authorization Request, [REDACTED]/16, Exhibit 3: NOA, [REDACTED]/17)
3. Approximately one year ago, [REDACTED] chest began to stick out. (Appellant's Testimony, Exhibit 1)
4. The Appellant took [REDACTED] to see a physician because [REDACTED] chest was sticking out, which made [REDACTED] feel socially uncomfortable. (Appellant's Testimony)
5. [REDACTED] MD of [REDACTED] Connecticut is [REDACTED] treating physician (the "treating physician"). (Exhibit 1)
6. [REDACTED] has a medical diagnosis of pectus carinatum with a pliable, symmetric chest, which is a deformity of the chest wall. (Hearing Record, Exhibit 1)
7. On [REDACTED] 2016, [REDACTED] had an ultrasound of his chest. The findings were as follows: At the site of the probable abnormality in the left parasternal region, normal-appearing costal cartilages were demonstrated. There was no mass or other abnormality demonstrated. (Exhibit B: Ultrasound Chest)
8. The treating physician prescribed a spinal orthosis for [REDACTED] as a therapeutic modality. (Hearing Record, Exhibit 1)
9. The treating physician referred [REDACTED] to [REDACTED] Connecticut for a spinal orthosis. (Exhibit 1)

10. [REDACTED] medical diagnosis of Pectus carinatum has no bearing on his overall medical health. (Exhibit 1)
11. [REDACTED] was born with kidney problems, but was discharged from nephrology at two years of age. (Exhibit 1)
12. [REDACTED] has no cervical lymphadenophy. (Exhibit 1)
13. [REDACTED] abdomen is soft, non-tender and non-distended with no masses and no hernias. (Exhibit 1)
14. [REDACTED] does not have any shortness of breath. (Exhibit 1)
15. [REDACTED] has no respiratory issues. (Appellant's Testimony, Exhibit 10: Determination Letter, [REDACTED]/17)
16. [REDACTED] does not have any pain in his chest. (Exhibit 1)
17. [REDACTED] does not have any irregular heartbeats. (Exhibit 1, Exhibit 10)
18. [REDACTED] has no gross abnormalities and has normal range of motion ("ROM"). (Exhibit 1)
19. [REDACTED] plays soccer for [REDACTED] School and has no difficulty running or walking. (Appellant's Testimony, Exhibit 1)
20. [REDACTED] is encouraged to participate in exercise and weight training to help his posture and tone. (Exhibit 1)
21. On [REDACTED] 2016, CHNCT received a prior authorization request from [REDACTED], Connecticut, for a spinal orthosis for [REDACTED] (Hearing Record, Exhibit 1)
22. On [REDACTED] 2017, CHNCT reviewed the submitted medical information and denied the request because there was no information received, after several request, for a code correction and pricing information. (Hearing Record, Exhibit 2: Medical Review, [REDACTED]/17, Exhibit 3: Notice of Action, [REDACTED]/17)
23. On [REDACTED] 2017, the Appellant requested an administrative hearing to contest CHNCT's denial of a spinal orthosis for [REDACTED] (Exhibit 4: Appeal and Administrative Hearing Request Form for Denied Services or Goods, Exhibit 5: Acknowledgement Letter, [REDACTED]/17)

24. On [REDACTED] 2017, [REDACTED] submitted an invoice for the Pectus Carinatum Orthosis [brace] from their manufacturer, SPS of Alpharetta, Georgia. (Exhibit 7: Clinical Information from [REDACTED] [REDACTED]/17)
25. On [REDACTED] 2017, CHNCT concluded that the spinal orthosis is not medically necessary because the specific clinical information submitted does not support the need for the item requested. The documentation provided indicates [REDACTED] does not exhibit any cardiovascular or respiratory issues but that the request relates to cosmetic support. (Exhibit 9: Medical Review, [REDACTED]/17, Exhibit 10)
26. On [REDACTED] 2017, CHNCT sent the Appellant a NOA indicating that the spinal orthosis for [REDACTED] was denied because based on the information it received from the treating pediatric physician the spinal orthosis is not medically necessary. (Exhibit 10: Notice For Denied Services or Goods, [REDACTED]/17)
27. On [REDACTED] 2017, the treating physician agreed with CHNCT that at this point and time, the brace [spinal orthosis] would be for cosmetic reasons. (Hearing Summary)

### **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. Based on the evidence submitted, ██████████ does not require the spinal orthosis to prevent, identify, diagnose, treat, rehabilitate or ameliorate his medical condition, in order to attain or maintain his achievable health and independent functioning.
4. Based on the evidence submitted, ██████████ diagnosis of pectus carinatum, with a pliable symmetric chest does cause cardiovascular or respiratory issues.
5. Based on the evidence submitted, the spinal orthosis is being used for cosmetic purposes to improve ██████████ appearance, which is considered primarily for his convenience and is not considered medical necessary based on the state statutes.

6. CHNCT correctly denied the prior authorization request for the spinal orthosis for [REDACTED] because it is not 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.