

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

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

CLIENT ID #: ██████████
HEARING ID #: 811743

NOTICE OF DECISION

PARTY

██████████
██
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, Beacon Health Options, medical administrator for the Connecticut Behavioral Health Partnership (“BHP”) sent ██████████ ██████████ (“Appellant”) a Notice of Action (“NOA”) denying her medical provider’s authorization request for in-patient psychiatric level of care services for her daughter, ██████████, for ██████████ 2017.

On ██████████ 2017, the Appellant requested an administrative hearing to contest BHP’s denial of residential placement for her daughter, ██████████ and its de facto denial of culturally and linguistically competent home care services for her.

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

The Appellant requested that the ██████████ 2017 hearing be rescheduled. This request was granted.

On ██████████ 2017, OLCRAH issued a notice of rescheduled hearing. The hearing was rescheduled at the Appellant’s request to ██████████ 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 by telephone conference. The following individuals participated in the hearing:

██████████, Appellant

Attorney ██████████ Appellant's Legal Representative
Sue Shatney, Counselor for the Deaf, Department Rehabilitation Services
Kimberly Martell, Clinical Liaison, Beacon Health Options
Dr. Sherrie Sharp, Chief Medical Director, Beacon Health Options
Dr. Lois Berkowitz, Department Children and Families Partner in CT BHP
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issues are:

1. Whether BHP is correct to deny prior authorization of payment for the Appellant's daughter's ██████████ 2017 in-patient psychiatric services at ██████████.
2. Whether BHP correctly denied residential treatment for the Appellant's daughter.
3. Whether BHP correctly denied culturally and linguistically competent community based services for the Appellant's daughter.

FINDINGS OF FACT

1. The Appellant's daughter, ██████████ age fifteen, (date of birth ██████/01) receives medical assistance from the State of Connecticut. (Hearing record)
2. The Appellant's daughter's diagnoses include: Generalized Anxiety Disorder, Adjustment Disorder with mixed disturbance of emotions and conduct, Attention Deficit Hyperactivity Disorder, combined type, and Intellectual Disability. In ██████████ 2017, she was being assessed diagnostically for concerns of auditory hallucinations. She is deaf and she communicates through American Sign Language. She has cochlear implants. (██████████ statement dated ██████████ 2017 – Appellant's exhibit II)
3. On ██████████ 2017, ██████████ (██████████) submitted a request for ██████████ inpatient psychiatric services for ██████████ (Connecticut Behavioral Health Partnership ("BHP") Medical Necessity Level I Appeal – Acknowledgement Letter – BHP exhibit E)

4. On [REDACTED] 2017, BHP denied the request for inpatient psychiatric services for [REDACTED] at [REDACTED] as not medically necessary. (Notice of Action for Denied Services dated [REDACTED] 2017 – BHP exhibit C)
5. On [REDACTED] 2017, the Appellant's daughter was discharged from [REDACTED] to her home. She was not admitted to [REDACTED] for inpatient psychiatric services. (Appellant's testimony, Appellant's exhibit II)
6. On [REDACTED] 2017, the Appellant's daughter was readmitted to the Emergency Department at [REDACTED] and on [REDACTED] 2017, discharged to her home. (Appellant's testimony, Appellant's exhibit II)
7. On [REDACTED] 2017, the Appellant's daughter was readmitted to [REDACTED]. (Appellant's testimony, Appellant's exhibit II)
8. On [REDACTED] 2017, the Appellant's daughter was discharged to [REDACTED] [REDACTED] inpatient unit in [REDACTED]. She remained in the hospital as of the date of this hearing. (Appellant's testimony, Appellant's exhibit II)
9. BHP's denial of inpatient services at [REDACTED] for [REDACTED] is moot as she was not admitted to [REDACTED] in [REDACTED] 2017. (Appellant's Legal representative's statement)
10. BHP approved the Appellant's daughter's inpatient hospitalization at [REDACTED] [REDACTED] in [REDACTED]. (Dr. Sharp's testimony, Hearing record)
11. The Appellant seeks Residential Treatment for her daughter while community based services are put into place. (Appellant's testimony)
12. During discharge planning for the Appellant's daughter, Residential Treatment and in-home services were discussed. (Peer Advisor Review – BHP exhibit B, Hearing record)
13. Residential Treatment is not authorized by BHP. It is a function of the Department of Children and Families ("DCF") through the Voluntary Services Program. (Dr. Berkowitz's testimony)
14. The Appellant is currently in the process of seeking DCF voluntary services. (Appellant's testimony)

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)]
3. On [REDACTED] 2017, Connecticut BHP issued a notice of action for denied services. The notice advised that [REDACTED] [REDACTED] request for an authorization, received on [REDACTED]/17, for admission into inpatient services at [REDACTED] beginning [REDACTED]/17 was denied as not medically necessary. (Notice dated [REDACTED] 2017 – BHP's exhibit C)
4. The denial of the request for authorization for admission to [REDACTED] is moot as the Appellant's daughter was not admitted. (Hearing record)
5. 17b-10-1 of the Regulations of Connecticut State Agencies provides that pursuant to section 17b-10 of the Connecticut General Statutes, the Department of Social Services has prepared, and routinely updates, a state eligibility Policy Manual containing all departmental policy regulations and substantive procedures which affect the rights or procedures available to the public. In particular, the Policy Manual outlines the policies and procedures used by the department to implement and enforce federal and state laws for all of the programs which it administers.

Uniform Policy Manual Section 1570.05 (B) provides that subject to the conditions described in this chapter, the requester has the right to a Fair Hearing if:

1. the Department denies the assistance unit's application for benefits; or
 2. the Department does not take action on the assistance unit's application within the time limits specified in Section 1500; or
 3. the requester feels that the Department has either failed to take a required action or has taken an erroneous action. Such actions include:
 - a. suspending, reducing, discontinuing, or terminating benefits; or
 - b. imposing conditions upon eligibility; or
 - c. issuing benefits in a manner other than directly to the assistance unit; or
 - d. taking any other action affecting the receipt of benefits, such as computing the amount of benefits.
6. BHP has approved the Appellant's daughter's inpatient hospitalization at [REDACTED]. Residential Treatment is a service that is approved through the DCF. There is no ruling to issue.

DISCUSSION

The Appellant's legal representative stated that the denial of authorization for the Appellant's daughter's admission was now moot as the Appellant's daughter did not enter [REDACTED] in [REDACTED] 2017. She stated that BHP chose to limit its hearing summary to the Solnit authorization denial but the request for a hearing also included the issue of the denial of emergency residential treatment and the de facto denial of culturally and linguistically competent in-home services.

I note that the Appellant's legal representative asked for an opportunity to submit a brief into the hearing record but did not do so. In addition, the Appellant failed to identify the remedy sought through this hearing process except to say that she seeks residential treatment for her daughter while proper in-home services can be set up.

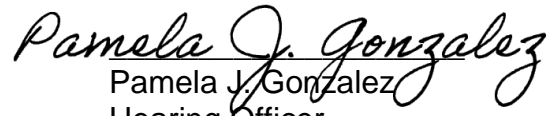
The evidence in the record indicates that Residential Treatment is approved through DCF via the Voluntary Services Program and that the Appellant has begun that process.

The Appellant claimed that needed medical services are not being provided and the Americans with Disabilities Act and Section 504 were in violation. There is no evidence in the record that the Appellant requested and was denied a reasonable accommodation with respect to approval for her daughter's [REDACTED] and/or [REDACTED] hospitalizations. There was discussion about her daughter's hearing impairment and how her need for translators was an obstacle to her

receipt of certain services. The services however, are services that DCF approves and do not come under my authority or jurisdiction.

DECISION

The Appellant's appeal is neither granted nor denied; it is dismissed as moot.


Pamela J. Gonzalez
Hearing Officer

Copy: William Halsey, DSS Central Office
Jessica DeFlumer-Trapp, DMHAS
Alyse Chin, DMHAS
Dr. Lois Berkowitz, DCF
Lynne Ringer, Value Options
Ann Phelan, Value Options
Joseph Tritschler, Value Options
Nardia Stephens, Value Options
Attorney Maria Morelli Wolfe, GHLA
Kimberly Martell, BHP

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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

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 his 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.