

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: ██████████  
Request: 814521

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2017, the Department of Social Services' (the "Department") issued ██████████ (the "Appellant") a *Pharmacy Prior Authorization Denial Notice*, denying prior authorization of Medicaid payment for the Appellant's Otzela 30 mg prescription.

On ██████████ 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to contest the decision.

On ██████████ 2017, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the OLCRAH held an administrative hearing, in accordance with sections 17b-60, 17b-61 and 4-176e to § 4-189, inclusive, of the Connecticut General Statutes. The following individuals participated in the administrative hearing:

██████████ Appellant  
Jason Gott, R.Ph., Department's representative  
Eva Tar, Hearing Officer

**STATEMENT OF ISSUE**

The issue to be decided is whether the Department's ██████████ 2017 denial of prior authorization of the Appellant's Otzela 30 mg prescription is supported by state statute and regulation.

### **FINDINGS OF FACT**

1. The Appellant is a Medicaid recipient. (Department's Exhibit A: *Drug Prior Authorization Request Form*, █████/17)
2. █████ is the Appellant's prescriber. (Department's Exhibit A)
3. On █████ 2017, the Appellant's prescriber filed a *Drug Prior Authorization Request Form* with the Department for Otezla 30 mg as a new therapy. (Department's Exhibit A)
4. Otezla is a non-preferred drug with respect to the Department's Step Therapy Program. (Department's representative's testimony)
5. Enbrel and Humira are preferred drugs in the Cytokine and CAM Antagonist class. (Department's representative's testimony)(Department's Exhibit D: Chart, updated █████/17)
6. On █████ 2017, the Department issued a *Pharmacy Prior Authorization Denial Notice* to the Appellant, stating that the request for prior authorization of Otezla 30 mg had been denied as his prescriber had used the wrong form. The Department required a completed *The Step Therapy PA* form. (Department's Exhibit B: *Pharmacy Prior Authorization Denial Notice*, █████/17)
7. On or around █████ 2017, the Department approved prior authorization of the Appellant's Otezla 30 mg prescription. (Department's Exhibit G: Email, █████/17)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes provides in part that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. The Commissioner of Social Services may establish a step therapy program for prescription drugs in the Medicaid program. The commissioner may condition payment for such drugs on a requirement that the drug prescribed be from the preferred drug list established pursuant to section 17b-274d prior to any other drug being prescribed, provided any step therapy program shall: (1) Require that the patient try and fail on only one prescribed drug on the preferred drug list before another drug can be prescribed and eligible for payment; (2) not apply to any mental health—related drugs; and (3) require that the prescribing practitioner, when medications for the treatment of any medical condition are restricted due to the step therapy program, has access to a clear and convenient process to expeditiously request an override of such restriction from the Department of Social Services. The department shall expeditiously grant an override of such restriction whenever the prescribing practitioner demonstrates that: (A) The preferred treatment required under step therapy has been ineffective in the treatment of the patient's medical condition in the past; (B) the drug regimen required under the step therapy program is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the drug regimen;

(C) the preferred treatment required under the step therapy program will cause or will likely cause an adverse reaction or other physical harm to the patient; or (D) it is in the best interest of the patient to provide the recommended drug regimen based on medical necessity. Conn. Gen. Stat. § 17b-274f (a).

3. The duration of any step therapy program requirement shall not be longer than a period of thirty days, after which time the prescribing practitioner may deem such treatment as clinically ineffective for the patient. When the prescribing practitioner deems the treatment to be clinically ineffective, the drug prescribed and recommended by the practitioner shall be dispensed and covered under the Medicaid program. Conn. Gen. Stat. § 17b-274f (b).
4. The Department acted within its authority when it implemented a Step Therapy Program for prescription drugs in the Medicaid program.
5. Prior authorization, to determine medical appropriateness and medical necessity, shall be required as a condition of payment for certain Medical Assistance Program goods or services as set forth in the regulations of the department governing specific provider types and specialties. The department shall not make payment for such goods and services when such authorization is not obtained by the provider of the goods or services. Conn. Agencies Regs. § 17b-262-528 (a).
6. In order to receive payment from the department a provider shall comply with all prior authorization requirements. The department in its sole discretion determines what information is necessary in order to approve a prior authorization request. Prior authorization does not, however, guarantee payment unless all other requirements for payment are met. Conn. Agencies Regs. § 17b-262-528 (d).
7. The Department correctly determined that approval for payment of the Appellant's Otezla 30 mg prescription was subject to the Department's prior authorization procedures.
8. The Department's [REDACTED] 2017 approval of prior authorization of the Appellant's prescription for Otezla 30 mg rescinded the agency's [REDACTED] 2017 denial of prior authorization.

### **DECISION**

The issue of this hearing is moot. The Department granted prior authorization of the Appellant's Otezla 30 mg prescription.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

cc: Jason Gott, Medical Care Administration, DSS-CO  
Herman Kranc, Medical Care Administration, DSS-CO

### **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.