

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 #: 822099

NOTICE OF DECISION

PARTY

██████████  
████████████████████  
████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2017, 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 revision of a breast reduction and nipple/Areola reconstruction ("revision of breast reduction").

On ██████████ 2017, the Appellant requested an administrative hearing to contest the denial of her request for a revision of a breast reduction.

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

On ██████████ 2017, at the Appellant's request, the OLCRAH issued a Notice rescheduling 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  
Robin Goss, RN, CHNCT Representative  
Swati Sehgal, Hearing Officer

Hearing Record left open for submission of additional information. Hearing Record closed on [REDACTED] 2017.

### **STATEMENT OF THE ISSUE**

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

### **FINDINGS OF FACT**

1. The Appellant is 47 years old. (Exhibit 1: Prior authorization request)
2. The Appellant is a Medicaid recipient with coverage through CHNCT. (Hearing Summary)
3. On [REDACTED] 2015, the Appellant underwent a reduction mammoplasty approved and paid by Medicaid. She had free nipple graft to do the reconstruction and the reduction. (Exhibit 1: Prior Authorization request, Appellant's testimony)
4. On [REDACTED] 2017, CHNCT received a prior authorization request from Dr. [REDACTED] plastic surgeon, for a revision of a breast reduction and nipple/areola reconstruction for diagnosis of breast hypertrophy. (Exhibit 1)
5. Dr. [REDACTED] stated the Appellant still needs revision of the reduction with severe Dog Ears laterally and depigmentation of the nipple, so she needs nipple /areolar reconstruction and tattooing of the nipple to complete the reconstruction. (Exhibit 1)
6. The Appellant has breast pain and both breasts are not symmetrical. Her left breast has extra tissue which needs to be removed. (Appellant's testimony)
7. The Appellant is able to complete all her daily activities independently. (Appellant's testimony)
8. There is no documentation that this surgery would improve or restore physical function or correct significant deformity from disease, trauma, or previous therapeutic process or procedure OR correct congenital or

developmental anomalies that have resulted in significant functional impairment or disfigurement. (Exhibit 3: CHNCT medical review results)

9. On [REDACTED] 2017, CHNCT denied the request for authorization for a revision of a breast reduction and nipple /areola reconstruction as it was not medically necessary, pursuant to section 17b-259 b(a)(2) of the Connecticut General Statutes. (Exhibit 4: Notice of Action, [REDACTED]/17)
10. On [REDACTED] 2017, the Appellant requested an Appeal of CHNCT's decision. (Exhibit 5: Hearing request)
11. On [REDACTED] 2017, CHNCT informed the Appellant's primary physician and plastic surgeon of her Appeal and requested additional information. (Exhibit 8 and 9: Medical Record Request)
12. On [REDACTED] [REDACTED] 2017, CHNCT received clinical information from the Appellant's primary physician and sent the Appeal for medical Review. (Exhibit 12: Medical Review Request)
13. On [REDACTED] 2017, after a second review, CHNCT upheld the denial because the request does not meet the definition of medical necessity for the requested revision of breast reduction and nipple/areola reconstruction. CHNCT's rational of the denial states that the record and photos provided do not convincingly demonstrate any significant functional issues, such as signs or symptoms that affect daily activity and function, related to proposed surgery. (Exhibit 14: Determination Letter, [REDACTED]/17)

### **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 Appellant did not establish that revision of a breast reduction and nipple/areola reconstruction 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.

4. CHNCT's decision to deny the Appellant's prior authorization request for a revision of a breast reduction and nipple/areola reconstruction because it is not medically necessary is correct.

**DECISION**

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

*Swati Sehgal*  
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Swati Sehgal  
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.