

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 828399

NOTICE OF DECISION

PARTY

██████████
For: ██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, Connecticut Behavioral Health Partnership (“Beacon”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for admission to a Psychiatric Residential Treatment Facility (“PRTF”) for her daughter ██████████ stating the admission is not medically necessary.

On ██████████ 2017, the Appellant requested an administrative hearing to contest Beacon’s decision to deny the prior authorization request.

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, 17-61 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
██████████ Appellant’s Daughter

Joseph Tritschler, Quality Management Coordinator, Beacon Health Options
Joan Narad, MD, Associate Medical Director, Beacon Health Options,
participated by telephone
Lois Berkowitz, Psy D., Director of Special Projects, Department of Children and
Families
Lisa Nyren, Fair Hearing Officer

On [REDACTED] 2017, the hearing officer reopened the hearing record for the submission of additional evidence. On [REDACTED] 2017, the hearing record closed.

On [REDACTED] 2017, the hearing officer reopened the hearing record for the submission of additional evidence. On [REDACTED] 2017, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether Beacon's decision to deny the prior authorization request through the Medicaid program for [REDACTED] placement at a Psychiatric Residential Treatment Facility ("PRTF") as not medically necessary, was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of [REDACTED] [REDACTED] (" [REDACTED] (Hearing Record)
2. [REDACTED] is age six (6), born on [REDACTED] 2011. (Exhibit A: PRTF Referral Form)
3. [REDACTED] lives with the Appellant and her 12 year old brother. (Appellant's Testimony)
4. [REDACTED] brother was diagnosed with autism and participates in Applied Behavioral Analysis ("ABA") programs specific to his diagnosis, receiving eighteen (18) hours of in-home care per week under the Medicaid program, and fourteen (14) hours of services out of the home, under Department of Developmental Services ("DDS"). (Appellant's Testimony and DCF Representative's Testimony)
5. [REDACTED] diagnoses include: unspecified behavioral/emotional disorder, obsessive compulsive disorder, attention deficit hyperactivity disorder ("ADHD"), oppositional defiant disorder ("ODD"), anxiety disorder

unspecified, disruptive mood dysregulation disorder, and bi-polar disorder. (Hearing Record)

6. ██████ displays aggressive behaviors toward family members two to three times per day, which includes hitting, kicking, biting, punching, spitting and/or throwing objects. Frustration with a task or activity, lack of sleep, or anger toward an individual may cause ██████ to act aggressively. (Appellant's Testimony and Exhibit G: Peer Advisor Review)
7. ██████ has difficulty calming down when agitated, regulating her emotions, and displaying appropriate emotions for a situation. (Appellant's Testimony and Exhibit G: Peer Advisor Review)
8. ██████ attends public school and completed kindergarten successfully with the placement of a 504 plan, which provides accommodations and modifications specifically tailored to address ██████ behavioral issues. School ended ██████ 2017. (Appellant's Testimony)
9. In ██████ 2016, ██████ Hospital referred ██████ to the ██████ ("EDT") at ██████. ██████ attended the EDT after school from 1:30 pm to 6:45 pm five days per week where she received counseling to assist with coping skills and medication management by Dr. ██████ ("psychiatrist"), child psychiatrist. ██████ enjoyed attending the EDT program. (Hearing Record)
10. On ██████ 2017, ██████ was transported by ambulance to ██████ Hospital Emergency Room (██████") after an incident with her mother. ██████ refused to sit in her car seat, fighting with her mother, and cursing at her mother. A police officer in the area assisted with the situation but ██████ did not cooperate, instead she cursed at the officer, struggled, spit and raised her middle finger. The officer called an ambulance and ██████ was transported to ██████. (Exhibit 3: Case/Incident Report)
11. The EDT program referred ██████ to the Intensive In-Home Child and Adolescent Psychiatric Services ("IICAPS") program. (Appellant's Testimony)
12. Beginning ██████ 2017, ██████ receives services from the IICAPS, which includes two (2) sixty to ninety minute visits from a clinical social worker and mental health counselor each week. Services include behavior modification techniques to encourage positive behaviors such as sticker charts and reward systems, anger management techniques to reduce outbursts, and coping skills for both the Appellant and ██████ (Exhibit C: Peer Advisor Review and Appellant's Testimony)

13. The IICAPS helped the Appellant create a crisis plan to assist the Appellant with [REDACTED] during mood changes or aggressive behavior. The current plan has not been successful causing the Appellant to call the police when [REDACTED] is not manageable. (Appellant's Testimony)
14. The IICAPS services remain limited due to availability of staff. (Appellant's Testimony)
15. Beacon Health Options ("Beacon") is the Department of Social Services' contractor that determines if a patient meets the level of care ("LOC") criteria to authorize Medicaid payment for placement in a PRTF. (Dr. [REDACTED] Testimony)
16. PRTF is a community based inpatient facility that provides psychiatric and other therapeutic and clinically informed services to patients under the age of twenty-one, whose immediate treatment needs require a structured 24-hour inpatient residential setting that provides all required services (including schooling) on site while simultaneously preparing the child and family for ongoing treatment in the community. (Dr. Narad's Testimony and Exhibit I: PRTF Criteria)
17. On [REDACTED] 2017, Dr. [REDACTED] ("PCP"), [REDACTED] primary care physician, submitted a PRTF referral to Beacon requesting prior authorization for the admission of [REDACTED] to a PRTF. (Exhibit A: PRTF Referral Form)
18. The PRTF referral lists the main clinical need for admission as severe outburst despite normal outpatient treatment. The PCP lists the goals for PRTF as: stabilization and reunification and medication evaluation. The PCP cites no social elements impacting diagnoses and did not complete a functional assessment. (Exhibit A: PRTF Referral Form)
19. [REDACTED] medication includes Abilify and Sertraline, as prescribed by the psychiatrist. (Exhibit A: PRTF Referral Form)
20. On [REDACTED] 2017, Dr. Joan Narad, Associate Medical Director at Beacon completed a review of the request for PRTF. Dr. Narad denied the request for PRTF because it is not the right health care setting. Dr. Narad writes, "She could benefit from enhanced in home service, ongoing medication assessment, and use of nonclinical intensive care coordination to assist parent and in home provider to obtain age appropriate extracurricular summer program for this member. In addition referral to DCF voluntary services may help support family more effectively." (Exhibit B: Review Details and Exhibit C: Peer Advisor Review)

21. On [REDACTED] 2017, Beacon issued a notice of denial of the request for admission to a PRTF. Beacon denied the request for PRTF because the service requested is not medically necessary because it will not be provided in the right health care setting. Based on the review of clinical information provided, the member has not presented with any acute psychiatric symptoms or concerns to warrant this request. Beacon recommends continued Intensive In-Home Clinical Services (“IICAPS”) to work on treatment planning and address family dynamics. (Exhibit D: Notice of Action for Denied Services)
22. On [REDACTED] 2017, [REDACTED] admitted [REDACTED] to their Child Psychiatry Inpatient Unit following multiple explosive outbursts at home. While inpatient, [REDACTED] appeared cooperative, compliant and engaged while participating in both therapeutic groups and individual therapy sessions. [REDACTED] observed one incident in which [REDACTED] required an escort to the quiet room triggered by phlebotomy. [REDACTED] adjusted [REDACTED] medication. (Exhibit G: Peer Advisor Review, Exhibit 5: Hospitalization Summary and Appellant’s Testimony)
23. On [REDACTED] 2017, [REDACTED] was discharged from [REDACTED] after a six day stay in the child psychiatric unit. [REDACTED] discharge instructions reports IICAPS planning to meet with [REDACTED] upon discharge. (Exhibit G: Peer Advisor Review, Exhibit 5: Hospitalization Summary and Appellant’s Testimony)
24. On [REDACTED] 2017, the EDT program discharged [REDACTED] from their program after reducing her participation from 5 days per week to 3 days per week upon discharge which coincided with the end of the school year on [REDACTED] [REDACTED] 2017. (Appellant’s Testimony and Exhibit 5: Hospitalization Summary)
25. On [REDACTED] 2017, Dr. Rao, Beacon, completed a level one appeal review. Dr. Rao spoke with the Appellant and reviewed the medical documentation. Dr. Rao determined the request for admission to a PRTF is not medically necessary because medical evidence provided indicates [REDACTED] has done well in the EDT program and [REDACTED] outbursts mostly occur in the home environment. Dr. Rao recommends intensive in home services providing individual and family therapy in the home setting along with outpatient medication management by an outpatient psychiatrist rather than placement in a PRTF. (Exhibit G: Peer Advisor Review)
26. On [REDACTED] 2017, Beacon issued a notice of denial of the request for admission to a PRTF to the Appellant. The notice stated the psychiatric residential treatment services requested are not medically necessary because it will not be provided in the right health care setting. Beacon writes: “Given the member’s diagnosis, recent addition to medications, having done well in EDT, and the recent addition of intensive family

- treatment, admission to psychiatric residential treatment is not medically necessary at this time. It is recommended that the member can be effectively treated with intensive in-home services providing individual and family therapy in the home setting and outpatient medication management by an outpatient psychiatrist.” (Exhibit H: Notice of Denial)
27. On [REDACTED] 2017, [REDACTED] admitted [REDACTED] to their Child Psychiatry Inpatient Unit for aggression, bipolar disorder, parent-child conflict and ADHD. [REDACTED] participated in groups and remained safe on the unit in good behavioral control. [REDACTED] adjusted [REDACTED] medication. (Exhibit 4: After Visit Summary and Exhibit 5: Hospitalization Summary)
 28. On [REDACTED] 2017, [REDACTED] discharged [REDACTED] to her mother’s care. [REDACTED] discharge instructions summary includes follow up with outpatient clinic, hospital program, and IICAPS. (Exhibit 4: After Visit Summary and Exhibit 5: Hospitalization Summary)
 29. On [REDACTED] 2017, [REDACTED] admitted [REDACTED] to their Child Psychiatry Inpatient Unit for an explosive outburst at her mother while riding in the car. [REDACTED] reported hallucinations and noises while in [REDACTED] care. [REDACTED] engaged in groups and with other staff while inpatient. [REDACTED] adjusted [REDACTED] medication. (Exhibit 5: Hospitalization Summary)
 30. On [REDACTED] 2017, [REDACTED] discharged [REDACTED] referring [REDACTED] to the outpatient child and psychiatry clinic for medication management until IICAPS program resumes. (Exhibit 5: Hospitalization Summary)
 31. The Appellant applied for voluntary services on behalf of [REDACTED] with the Department of Children and Families. The application for services remains pending. (Appellant’s Testimony)
 32. There is no evidence presented by a psychiatrist recommending placement of [REDACTED] at a PRTF. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statute § 17b-2(6) provides 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. State statute provides 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. Stats. § 17b-259b(a)]
3. State statute provides 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. Stats. § 17b-259b(b)]
 4. State statute provides 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. Stats. § 17b-259b(c)]
 5. State statute provides 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. Stats. § 17b-259b(d)]

6. Conn. Agency Regs. § 17b-262-804 provides that sections 17b-262-804 to 17b-262-816, inclusive, set forth the Department of Social Services' requirements for payment for Psychiatric Residential Treatment Facilities (PRTF) services provided to clients who are determined eligible for Connecticut's Medicaid Program pursuant to section 17b-261 of the Connecticut General Statutes.
7. Title 42 of the Code of Federal Regulations ("CFR") § 441.151(a) provides that inpatient psychiatric services for individual under age 21 must be:
 1. Provided under the direction of a physician;
 2. Provided by:
 - i. A psychiatric hospital that undergoes a State survey to determine whether the hospital meets the requirements for participation in Medicare as a psychiatric hospital accrediting the program has been approved by CMS; or a hospital with an inpatient psychiatric program that undergoes a State survey to determine whether the hospital meets the requirements for participation in Medicare as a hospital, as specified in part 482 of this chapter, or is accredited by a national accrediting organization whose hospital accrediting program has been approved by CMS.
 - ii. A psychiatric facility that is not a hospital and is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other accrediting organization with comparable standards that is recognized by the State.
 3. Provided before the individual reaches age 21, or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following-
 - i. The date the individual no longer requires the services; or
 - ii. The date the individual reaches 22; and
 4. Certified in writing to be necessary in the setting in which the services will be provided (or are being provided in emergency circumstances) in accordance with § 441.152.

42 CFR § 441.151(b) provides that inpatient psychiatric services furnished in a psychiatric residential treatment facility as defined in § 483.352 of this chapter, must satisfy all requirements in subpart G of part 483 of this chapter governing the use of restraint and seclusion.

State regulation defines *psychiatric residential treatment facility (PRTF)* as a facility that meets all the requirements in 42 CFR Part 441, Subpart D

and 42 CFR Part 483, Subpart G.

8. State regulations defines *client* as a person eligible for goods or services under Medicaid who is under age twenty-one at the time services are received. If a client received services immediately before reaching age twenty-one, payment shall be available for services received before the earlier of the date that the client no longer requires the services or the date that the client reaches age twenty-two. [Conn. Agency Regs. § 17b-262-805(7)]
9. State regulation defines *certification of need* as an evaluation process for clients who are under consideration for admission to a PRTF. [Conn. Agency Regs. § 17b-262-805(6)]
10. State regulation defines *elective admission* as any admission to a PRTF that is non-emergency, including, but not limited to, transfers from one PRTF to another. [Conn. Agency Regs. § 17b-262-805(9)]
11. State regulation defines *independent team* as a team that meets the requirements set forth in 42 CFR, Part 441, section 441.153(a). The independent team may not include anyone who is related, in any way, to the admitting facility, or who is directly responsible for the care of patients whose care is being reviewed or has a financial interest in the admitting facility. The department performs the functions of the independent team. [Conn. Agency Regs. § 17b-262-805(10)]

42 CFR § 441.152(a) provides for a team specified in § 441.154 must certify that-

1. Ambulatory care resources available in the community do not meet the treatment needs of the beneficiary;
2. Proper treatment of the beneficiary's psychiatric condition requires services on an inpatient basis under the direction of a physician; and
3. The services can reasonably be expected to improve the beneficiary's condition or prevent further regression so that the services will no longer be needed.

State regulation defines *department* as the Department of Social Services or its agent. [Conn. Agency Regs. § 17b-262-805(8)]

12. State regulation defines *medical necessity or medically necessary* as health care that is provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist an individual in attaining or maintaining an optimal level of health; to diagnose a condition or to prevent a medical condition from occurring. [Conn. Agency Regs. § 17b-262-805(16)]

13. State regulation provides for payment for PRTF services shall be available, subject to the conditions and limitations set forth in sections 17b-262-804 to 17b-262-816, inclusive of the Regulations of Connecticut State Agencies, for services rendered to clients. [Conn. Agency Regs. § 17b-262-807]
14. State regulation provides that in order to receive payment for PRTF services for individuals, admissions shall have a certification of need as required in 42 CFR 441 subpart D, as amended from time to time. [Conn. Agency Regs. § 17b-262-810(a)]

Title 42 of the Code of Federal Regulations (“CFR”) § 441.152(a) provides that a team specified in § 441.154 must certify that-

1. Ambulatory care resources available in the community do not meet the treatment needs of the beneficiary;
2. Proper treatment of the beneficiary’s psychiatric condition requires services on an inpatient basis under the direction of a physician; and
3. The services can reasonably be expected to improve the beneficiary’s condition or prevent further regression so that the services will no longer be needed.

Title 42 of the CFR § 441.152(b) provides that the certification specified in this section and in § 441.153 satisfies the utilization control requirement for physician certification in §§456.60, 456.160, and 453.360 of this chapter.

15. State regulation provides that the certification of need shall be based on a determination that:
1. Ambulatory care resources available in the community do not meet the treatment needs of the client;
 2. Proper treatment of the client’s psychiatric condition requires services on an inpatient basis under the direction of a physician; and
 3. The services shall reasonably be expected to improve the client’s condition or prevent further regression so that inpatient services shall no longer be needed. [Conn. Agency Regs. § 17b-262-810(b)]
16. State regulation provides when the admission of a client is elective, an independent team shall perform the certification of need. The facility shall maintain written documentation of the independent team’s certification of need as evidenced by the signature of a member of the independent team on a certification of need form or letter(s) of authorization by the independent team. [Conn. Agency Regs. § 17b-262-810(c)]
17. Beacon correctly determined that [REDACTED] medical condition does not meet the criteria for certification of need as established in state regulations to

- support medical necessity for the requested level of care based on the following facts: The PCP's referral does not include a functional assessment and fails to elaborate on [REDACTED] medical condition to support placement at a PRTF. Hospital discharge summaries recommend services provided by IICAPS rather than placement at a PRTF. With a 504 plan in place, [REDACTED] successfully completed kindergarten and her participation in the EDT program was successful. The Appellant and [REDACTED] currently participate in the IICAPS program while remaining in the community. As of the hearing date, the Appellant is waiting for a decision from DCF regarding her application for voluntary services.
18. Beacon correctly determined that [REDACTED] medical condition does not meet the criteria to authorize payment for admission to a PRTF because the Appellant has not substantiated the need for this level of care as medically necessary based on the following facts: Although admitted to [REDACTED] for acute inpatient psychiatric hospital stays, discharge plans from [REDACTED] continue to refer [REDACTED] to outpatient care. IICAPS participation began [REDACTED] 2017, only fifteen days prior to the prior authorization request for PRTF placement. Fifteen days is not enough time to evaluate the success or failure of the IICAPS program. As of the hearing date, the Appellant applied for voluntary services with DCF and was waiting for an eligibility determination from DCF. In addition, there is no evidence from a psychiatrist recommending the placement of [REDACTED] at a PRTF.
19. Beacon was correct to deny prior authorization because [REDACTED] does not meet the medical necessity criteria for admission to a PRTF. in accordance with state statutes and regulations.
20. On [REDACTED] 2017, Beacon correctly denied the Appellant's request for prior authorization for admission to a PRTF for [REDACTED] and issued a notice of action to the Appellant.

DISCUSSION

Evidence does not support [REDACTED] admission to a PRTF as requested by the Appellant but rather supports [REDACTED] care may be safely managed with Intensive In-Home Clinical Services (IICAPS) while residing in the community. Beacon recommends continued IICAPS for [REDACTED] and voluntary services to be provided by DCF to assess [REDACTED] and determine more appropriate services for [REDACTED] and the Appellant while residing in the community. Currently, the Appellant is waiting for a determination of eligibility for voluntary services provided by DCF.

DECISION

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

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: William Halsey, Department of Social Services
Lois Berkowitz, Psy.D, Department of Children and Families
Joseph Tritschler, Beacon Health Options

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 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 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.