

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

██████████, 2018
Signature Confirmation

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

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") through its Administrative Services Organization(ASO), Community Health Network of Connecticut, Inc. ("CHNCT"), sent ██████████ ("Appellant") a Notice of Action ("NOA") stating that it had denied his provider's prior authorization request for approval of PET ("Positron Emission Tomography") imaging as not medically necessary, pursuant to Section 17b-259b of the Connecticut General Statutes, as the request does not meet generally accepted standards of care, and based on the documents submitted, the medical necessity for this test could not be substantiated.

On ██████████, 2018, the Appellant requested an administrative hearing to contest CHNCT denial of his provider's prior authorization request for approval of the PET imaging.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████ 2018, 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
Robin Goss, RN, BSN, CHNCT representative, Appeals and Grievances Analyst
Miklos Mencseli, Hearing Officer

At the request of the Appellant and CHNCT the hearing record was held open for a reconsideration review to be conducted by CHNCT on the documentation submitted by the Appellant at the hearing. On [REDACTED] 2018, the hearing officer closed the record.

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny the Appellant's prior authorization request for approval of PET imaging, as not medically necessary pursuant to Section 17b-259b of the Connecticut General Statutes, is correct

FINDINGS OF FACT

1. The Appellant is a recipient of Medicaid benefits. (Hearing Summary)
2. The Appellant is [REDACTED] years of age. (Hearing Summary)
3. In [REDACTED] 2016, the Appellant underwent a prostatectomy that revealed a lymph node positive disease at UCONN Medical. (Hearing Summary, Hearing Record)
4. On [REDACTED] 2018, CHNCT, the Department's medical subcontractor, received a prior authorization request from the Appellant's oncologist at Yale New Haven Hospital for approval of PET scan for diagnosis of personal history of malignant neoplasm (cancerous tumor) of prostate. (Hearing Summary; Dept.'s Exhibit #1)
5. On [REDACTED] 2018, the Medical Reviewer for CHNCT reviewed the prior authorization request and information submitted and determined that the request for PET imaging did not meet coverage criteria, as PET imaging is not indicated for prostate cancer. (Hearing Summary; Dept.'s Exhibit #2: Medical Review)
6. On [REDACTED], 2018, CHNCT sent a Notice of Action ("NOA") to the Appellant advising him that the prior authorization request for approval of PET imaging was denied, because it does not meet generally accepted standards of care. The NOA stated that the service requested was not medically necessary, per section 17b-259b(a)(1) of the Connecticut General Statutes. (Hearing Summary; Dept.'s Exhibit #3: [REDACTED]/18 Notice of Action)
7. On [REDACTED], 2018, CHNCT received a request for an expedited verbal appeal. (Hearing Summary; Dept.'s Exhibit #4: Appellant's appeal request)

8. On [REDACTED], 2018, CHNCT sent the Appellant an acknowledgement letter of his request and determined that the appeal would be expedited. (Hearing Summary, Dept.'s Exhibit #5)
9. On [REDACTED], 2018, CHNCT informed the Appellant's oncologist of the appeal and he submitted additional information to CHCNT. (Hearing Summary, Dept.'s Exhibit #6 and #7)
10. The Appellant's provider is requesting the PET imaging as this scan would change the Appellant's treatment. The provider is recommending radiation therapy but if there is any progression of the disease the treatment would be chemotherapy. The provider does not want to use radiation therapy if any progression is detected outside of the pelvis. The Appellant has failed hormone therapy [androgen deprivation therapy ("ADT")]. The PET imaging gives higher resolution than an MRI. (Dept.'s Exhibit #9: Medical Review Request dated [REDACTED]-18)
11. On [REDACTED], 2018, CHNCT conducted a Medical review and the denial was upheld. The Medical Reviewer noted that on [REDACTED]/17 a Bone scan was performed that was negative for bony metastases. In addition a CT scan of the abdomen and pelvis without IV contrast (dye) was performed and was negative for metastatic disease. (Hearing Summary, Exhibit #10: Medical Review Results)
12. The National Comprehensive Cancer Network ("NCCN") guidelines for prostate cancer does not recommend either FDG-PET/CT or Fluciclovine PET/CT for restaging of prostate cancer. Based on the lack of national society recommendations, the Medical Reviewer determined the denial of the PET imaging is correct. (Hearing Summary, Exhibit #10: Medical Review Results dated [REDACTED] 8)
13. On [REDACTED] 2018, CHNCT sent the Appellant a NOA advising him that the prior authorization request for approval of PET imaging was denied, as it is not recommended by a physician-specialty society. (Hearing Summary, Dept.'s Exhibit#16: NCCN Guidelines, Dept.'s Exhibit #11: NOA dated [REDACTED] 18)
14. The NCCN guidelines state; "In certain clinical settings, the use of FDG-PET/CT may provide useful information, but FDG-PET/CT should not be used routinely since data on the utility of FDG-PET/CT in patients with prostate cancer is limited." (Exhibit #16: NCCN Guidelines Version 2.2017 Prostate Cancer)
15. The Appellant is currently not receiving any type of treatment. (Hearing Record)

16. After the prostatectomy in █████ 2016, the Appellant's Prostate-Specific Antigen ("PSA") was above zero indicating that there was residual cancer. (Dept.'s Exhibit 10, Hearing Record)
17. UCONN medical recommended radiation and hormonal therapy for the Appellant after his prostatectomy. (Hearing Record)
18. The Appellant only did the hormonal therapy as his initial PSA numbers were low and the benefits of radiation were not fully explained to his satisfaction. The Appellant stopped is hormonal therapy in █████ 2017 as they made him ill. (Hearing Record)
19. The Appellant did not seek a 2nd opinion until a year had passed. The current documentation and request for PET imaging is from Yale New Haven. (Hearing Record)
20. By delaying for a year the Appellant's condition could have changed and the original treatment plan is not valid if the cancer has spread from the prostate area. (Hearing Record)
21. Yale New Haven is concerned that the original cancer has spread making radiation therapy less effective and would recommend chemotherapy at that point. (Hearing Record)
22. The Appellant is concerned that the cancer has spread outside of the prostate area to other parts of the body. (Hearing Record)
23. At the hearing the Appellant submitted documentation for his appeal. The documents are; Journal of Clinical Oncology – Multisite experience of fluciclovine (18F) PET/CT imaging in biochemically recurrent prostate cancer, U.S. National Library of Medicine – Retrospective Observational Study Investigating Fluciclovine (18F) (FACBC) and New York Times article – Hormone Blockers Can Prolong Life if Prostate Cancer Recurs. (Exhibits #12, 13 and 14)
24. CHNCT accepted the documents for a reconsideration review. CHNCT is also including the NCCN guidelines as part of the reconsideration review.
25. The Office of the National Coordinator for Health Information Technology ("ONC") states that PET scans are considered experimental/investigational for all indications for prostate cancer. The reviewers have been advised, that because of national guidelines Choline PET scans may be approved in the Appellant's clinical scenario. (Dept.'s Exhibit#18: ONC-19-Prostate Cancer guideline)

26. CHNCT decision is to uphold the denial of the PET scan as it is not supported for known or suspected disease in the prostate. It does not meet generally accepted standards of care.
27. CHNCT is correct to deny the PET scan based on medical necessity as the PET scan is not consistent with generally-accepted standards of medical practice and the recommendations of a physician-specialty society.

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, 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. CHNCT was correct when it denied as not medically necessary the Appellant's provider's request for prior authorization for PET imaging.

DISCUSSION

The Appellant is currently not receiving any type of treatment. He acknowledges that by delaying in getting a second opinion and stopping his treatment he may have contributed to his condition. At this time, the use of PET imaging is not recommended by the guidelines. However the alternative Choline PET scan maybe approved for the Appellant. CHNCT advised the Appellant's oncologist of this possibility. He stated that his preference is the PET scan; his reasoning is that its FDA approved and is ideally better to determine the possible spread of cancer.

DECISION

The Appellant's appeal is Denied.



Miklos Mencseli
Hearing Officer

C: Community Health Network of CT (CHNCT)

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.