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

[redacted] 2018
SIGNATURE CONFIRMATION

Client ID # [redacted]
Hearing ID # 117224

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2018, the Department of Social Services (the "Department"), through its medical Administrative Services Organization, Community Health Network of Connecticut, Inc. ("CHNCT"), sent [redacted] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of Husky Medicaid payment for an MRI of the lumbar spine without and with contrast.

On [redacted] 2018, the Appellant requested an administrative hearing to contest the Department's denial of an MRI of the lumbar spine without and with contrast.

On [redacted], 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled an administrative hearing for [redacted], 2018.

On [redacted] 2018, 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 participated in the hearing via video and telephone conferencing:

[redacted], Appellant
Fabiola Goin, RN, CHNCT Representative
[redacted] Representative
Thomas Monahan, Hearing Officer

The hearing record remained open for the submission of a missing attachment from the hearing summary. [redacted], 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether CHNCT's decision to deny authorization of Husky Medicaid payment for an MRI of the lumbar spine without and with contrast because it is not medically necessary is correct.

FINDINGS OF FACT

1. The Appellant is [redacted] years old [redacted]). (Exhibit 1: Prior authorization request, [redacted])

2. The Appellant is a participant in the Husky D Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)

3. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of medical services. (Hearing Record)

4. [redacted] for evaluating prior authorization requests. (Hearing record)

5. The Appellant's medical history includes back pain in 2005 which was relieved through physical therapy. (Appellant's Testimony)

6. The Appellant's back pain returned in approximately [redacted]. (Appellant's testimony)

7. [redacted] (the" treating physician") of [redacted] Orthopedics treated the Appellant for his back pain. (Hearing record)

8. On [redacted] 2013, the Appellant's diagnosis was Lumbago, Lumbar spondylosis with intermittent radiculitis, right worse than left. (Ex. 9, p.17: Medical report, [redacted])

9. On [redacted] 2013, the Appellant met with the treating physician for a follow-up visit to discuss the results of an MRI done in late [redacted]. The MRI of the Lumbar spine showed the following: desiccated disc at L3-4 with very mild narrowing and minimal bulge; No disc herniation or canal stenosis was found; at L4-5 there was subligamentous disc bulge. (Ex. 9, p.14: Medical report, treating physician, [redacted])

10. The treating physician's assessment found a history of chronic back pain, intermittent lumbar radiculitis and new onset of right-sided groin pain and clicking. The treating physician recommended physical therapy and a home exercise program. He also recommended an MRI of the right hip. (Ex. 9, p.14: Medical report, treating physician, [redacted])

11. On [redacted], the treating physician examined the Appellant and assessed his condition as chronic back pain, intermittent lumbar radiculitis, with groin pain overall improved. The orthopedic physician recommended that the Appellant continue with a home exercise plan. (Ex. 9, p.11: Medical report, treating physician, [redacted])

12. On [redacted], the Appellant met with his treating physician after a fall. An epidural steroid injection was administered on [redacted]. The Appellant was given Vicodin for his back pain. (Ex. 9, p.8-9: Medical report, treating physician, [redacted])

13. On [redacted], the treating physician reassessed the Appellant's lower back and leg pain. He prescribed a muscle relaxer. The treating physician diagnosed the Appellant with spondylosis, back pain and bilateral lumbar radiculitis right worse than left side. He recommended a new MRI as the Appellant's radicular symptoms had worsened. (Ex. 9, p.7: Medical report, treating physician, [redacted])

14. On [redacted], the Appellant was evaluated and the MRI done on [redacted], was reviewed by the treating physician. The treating physician commented that the MRI shows degenerative disc disease at L3-L4 which is unchanged from the prior MRI. The MRI also showed foranimal far lateral disc protrusion at L4-5 on the right side more prominent than a few years ago. The MRI states "L4-5 diffuse disc bulge with superimposed right foranimal bulge with annular tear. At L3-4 concentric disc bulge with extension of disc material into the neural foramen bilaterally." (Ex. 9, p.5: Medical report, treating physician, [redacted])

15. On [redacted], the Appellant met with the treating physician. X-rays were taken. The x-rays showed that his back overall alignment was good with no acute fractures. The treating physician prescribed an anti-inflammatory and a muscle relaxer. (Ex. 9, p.3: Medical report, treating physician, [redacted])

16. The Appellant suffers from symptoms of back pain and soreness, and lumbar spasms which he has received treatment for many years. (Appellant's Testimony)

17. The Appellant is able to do limited walking and can't stand for long periods (Appellant's Testimony)

18. The Appellant's current medication regimen includes muscle relaxers and Vicodin taken as needed. (Appellant's Testimony; Exhibit 9: Medical reports)

19. [redacted], M.D., is the Appellant's primary care physician ("PCP"). (Appellant's Testimony; Exhibit 1: Prior Authorization Request)

20. The Appellant is no longer a patient of his original orthopedic treating physician who had treated him since [redacted]. The treating physician would not accept his Husky D because he moved to a different county. (Appellant's testimony)

21. On [redacted], CHNCT received a prior authorization request from the Appellant's PCP for an MRI of the Lumber Spine for diagnosis of intervertebral disc disorders with myelopathy. (Ex. 1: Prior Authorization request)

22. The Appellant is attempting to find a new orthopedic physician. The initial orthopedist he contacted requested that he bring a recent MRI to his initial appointment. (Appellant's testimony)

23. Most specialists will require an MRI before seeing a new patient. (Department's testimony)

24. The Appellant has applied for and has a pending application for Social Security Disability benefits. (Appellant's testimony)

25. On [redacted], CHNCT through [redacted], denied the prior authorization request for an MRI of the lumbar spine. Evicore noted that an MRI might be supported in the evaluation of suspected or known spinal disease with one of the following: 1) failure to improve after a recent six week trial of physician-guided clinical care (treatment or observation) with clinical re-evaluation, or 2) any signs or symptoms such as significant motor weakness, recent malignancy or infections, cauda equine syndrome, for which conservative treatment is not needed. The clinical information received fails to support meeting these requirements. (Ex. 3: Medical review)

26. On [redacted], CHNCT sent a notice to the Appellant denying his PCP's request for an MRI. (Ex. 4: Notice of Action, [redacted])

27. On [redacted], the Appellant requested a hearing to contest the denial of the MRI of the lumbar spine. (Ex. 5: Hearing request)

28. On [redacted], CHNCT notified the Appellant's PCP and previous orthopedic treating physician of the Appellant's appeal and requested additional documentation showing the need for the MRI of the lumbar spine. The clinical information that was requested included clinical documentation of failure to improve after a recent (within 3 months) 6 week trial of physician-guided clinical care with clinical re-evaluation, clinical documentation of the member's signs or symptoms and a letter of medical necessity that indicates why the MRI is medically necessary. The information was due by [redacted]. (Ex's 7, 8: Letters sent to PCP and orthopedic physician, [redacted])

29. On [redacted], CHNCT received additional information from the previous orthopedic treating physician (Hearing summary, Ex. 9: Orthopedic physician's medical reports)

30. On [redacted], CHNCT sent the appeal for a Medical Review by [redacted]. (Hearing Summary, Ex. 10: Medical review request)

31. On [redacted], the Medical Review was completed and the denial was upheld. CHNCT reaffirmed its denial of prior authorization of an MRI due to the lack of medical necessity and because it does not meet generally accepted standards of care. The denial states that there is no recent report of any neurologic changes to support the need for the MRI. (Exhibit 11: Medical Review, [redacted])

32. On [redacted], CHNCT sent a determination letter to the Appellant notifying him of the denial of the MRI of the lumbar spine and upholding the denial of authorization, because the requested MRI information provided by your doctor does not support the medical necessity criteria for approval in accordance with the Connecticut General Statutes. (Exhibit 12: Determination letter, [redacted])

CONCLUSIONS OF LAW

1. Section 17b-2 (6) & § 17b-262 of the Connecticut General Statues provides in part that the Department of Social Services 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.

2. Section 17b-239(d) of the Connecticut General Statutes addresses medical payments for outpatient hospital services.

3. 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)]

4. CHNCT correctly determined that the Appellant did not provide recent medical documentation to establish that a MRI of the lumbar spine without and with contrast is medically necessary.

5. CHNCT was correct to deny the request for MRI of the lumbar spine as it is not medically necessary.

DISCUSSION

The Appellant is attempting to see an orthopedic specialist for treatment of back and leg pain. The specialist requires a recent MRI for his initial appointment. The most recent medical reports regarding the Appellant's back pain are from [redacted]. The Appellant has not received treatment for his back pain from a specialist in over two years and does not have any recent medical information to submit.

DECISION

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

Thomas Monahan
Hearing Officer

C: appeals@chnct.org
Fatmata Williams, DSS

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.