

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

██████████ 2018
SIGNATURE CONFIRMATION

Client ID # ██████████
Hearing ID # 123709

NOTICE OF DECISION

PARTY

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

On ██████████, 2018, the Department of Social Services (the "Department"), through its medical Administrative Services Organization, Community Health Network of Connecticut, Inc. ("CHNCT"), sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of Husky Medicaid payment for PET imaging with concurrently acquired CT for attenuation correction and anatomical localization: skull base to mid-thigh (PET scan).

On ██████████ 2018, the Appellant requested an administrative hearing to contest the Department's denial of the PET scan.

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

On ██████████, 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:

██████████, Appellant
Fabiola Goin, RN, CHNCT Representative
Alexandra Washington, RN, EviCore Representative
Thomas Monahan, Hearing Officer

The hearing record remained open for the submission of additional medical information from the Appellant. On [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 PET imaging with concurrently acquired CT for attenuation correction and anatomical localization because it is not medically necessary is correct.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old ([REDACTED]/56). (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. EviCore is CHNCT's radiology subcontractor for evaluating prior authorization requests. (Hearing record)
5. The Appellant's medical history includes a diagnosis of breast cancer in [REDACTED] and a right lumpectomy and axillary dissection performed in [REDACTED]. (Exhibit 2: Oncologist's medical record)
6. An x-ray of the Appellant's right knee performed on [REDACTED] revealed widespread osseous lesions and a right hip x-ray revealed a dense somewhat mottled appearance. The Appellant also lost significant weight over the last year. (Exhibit 2: Treating oncologist progress note, interval history, [REDACTED])
7. On [REDACTED], 2018 the Appellant underwent a CT scan of the chest, abdomen and pelvis. (Exhibit 4: CT Chest Abdomen Pelvis w IV Contrast)
8. The CT scan results found the following: Diffuse osseous metastatic disease with healing pathologic fractures of the ribs bilaterally, the pubic rami bilaterally a non-displaced fracture of the right acetabulum; non-obstructing 8 mm left renal stone; Indeterminate, low attenuation focus in the spleen; nodular thickening of the left adrenal gland; Bilateral

pulmonary nodules. The recommendation was a short interval follow-up of the chest in 3-6 months.

9. Dr. [REDACTED] is the Appellant's "treating oncologist".
10. The Appellant's current diagnosis is: Malignant Neoplasm of unspecified site of left breast, Secondary neoplasm of bone, and estrogen receptor Positive Status [ER+]. (Exhibit 1: Treating oncologist's prior authorization request)
11. The Appellant is currently on two cancer drugs. (Appellant's testimony)
12. On [REDACTED] 2018 CHNCT received a prior authorization request from the treating oncologist for PET imaging with concurrently acquired CT for attenuation correction and anatomical localization. (Exhibit 1: Treating oncologist's prior authorization request)
13. On [REDACTED] 2018, CHNCT through EviCore, denied the prior authorization request for PET imaging with concurrently acquired CT for attenuation correction and anatomical localization. The reason for the denial was that "the clinical review shows that the same test or one similar to the requested study was previously performed. The results of this prior imaging were provided, but they do not show why these results are not sufficient for the evaluation of the current clinical condition. Additional imaging is not supported without a clear reason why it is needed." (Exhibit 5: Medical review, [REDACTED])
14. On [REDACTED] 2018, CHNCT sent a notice to the Appellant denying the treating oncologist's request for a PET scan because it is not medically necessary. (Ex. 6: Notice of Action, [REDACTED]/18)
15. On [REDACTED] 2018 the Appellant requested an appeal of CHNCT's decision to deny a PET scan. (Exhibit 7: Hearing Request)
16. On [REDACTED], 2018, CHNCT notified the Appellant's treating oncologist of the Appellant's appeal and requested additional documentation showing the need for the PET scan. Specifically CHNCT requested clinical documentation supporting the medical need for the PET scan in addition to prior imaging. CHCNT also requested a letter of medical necessity providing a clear reason why a PET scan is medically needed for the Appellant (Exhibit 9: Letter to treating oncologist)
17. CHNT did not receive any additional medical information from the treating oncologist. (CHNCT testimony)

18. PET scans do not follow-up on small areas. The nodules in the previous CT scan are less than 4 millimeters. Most times PET scans cannot review nodules or any type of mass that are less than 7 millimeters. (Evicore representative's testimony)
19. A CT scan that is inconclusive may mean a PET scan is necessary. The Appellant's CT scan was not inconclusive. (Evicore representative's testimony)
20. On [REDACTED], 2018, CHNCT completed a second review and upheld the previous denial for a PET scan. CHNCT's rational of the denial states the member's condition does not meet coverage criteria as there is obvious metastatic disease (NOT inconclusive) already seen on conventional imaging, some of which are sclerotic and some of which are more acute and associated with pathologic fracture. There were sub centimeter pulmonary nodules (All < 4 mm) and an indeterminate splenic lesion also too small to characterize by CT, which makes it less likely that PET would be able to characterize those sub centimeter lesions at this time. Additionally there has not been an initial bone scan. (Exhibit 13: Medical review results)
21. On [REDACTED], 2018, CHNCT sent a notice of action to the Appellant denying her appeal for a PET scan. (Exhibit 14: Notice of Denial, [REDACTED])

CONCLUSIONS OF LAW

1. Section 17b-2 (6) & § 17b-262 of the Connecticut General Statutes 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. The CT scan was not an inconclusive test. It identified metastatic disease and small nodules that were better characterized by a CT scan than PET imaging.
5. The Appellant's oncologist did not respond to requests to provide additional evidence that PET imaging is medically necessary.

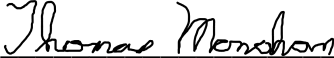
6. CHNCT correctly determined that the evidence provided by the Appellant and her oncologist did not establish that a PET scan is clinically appropriate at this time.
7. CHNCT was correct to deny the request for PET imaging with concurrently acquired CT for attenuation correction and anatomical localization as not medically necessary.

DISCUSSION

The Appellant testified that she requested PET imaging to verify that her cancer has not spread to other organs or her brain. Her oncologist did not provide any evidence that PET imaging was medically necessary in her diagnosis or treatment. The CT scan was a conclusive test and the Appellant is currently being treated based on the CT scan. The treating oncologist's notes and the Department's Evicore representative recommended that a New CT scan be completed to see if there were changes or growth in the Appellant's cancer and that imaging for the brain is done by an MRI. The Evicore representative testified that after a second CT scan is completed a course of additional testing or treatment can be determined.

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.