

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

██████████ 2018  
Signature confirmation

Case: ██████████  
Client: ██████████  
Request: ██████████

**NOTICE OF DECISION**

**PARTY**

██████████  
██  
██  
██

**PROCEDURAL BACKGROUND**

On ██████████, the Department of Social Services (the "Department"), through ASCEND Management Innovations ("ASCEND"), issued ██████████ (the "Appellant") a *Notice of Action* that stated that upon review of his case, ASCEND had found that nursing facility level of care was not medically necessary. The *Notice of Action's* effective date was ██████████ 2018.

On ██████████ 2018, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to dispute ASCEND's determination.

On ██████████ 2018, the OLCRAH issued a notice scheduling an administrative hearing for August 17, 2018.

On ██████████ 2018, ASCEND issued a *Notice of Action* to the Appellant granting short-term nursing facility approval through ██████████, 2018.

On ██████████ 2018, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing at ██████████, a skilled nursing facility. The following individuals participated in the administrative hearing:

██████████, Appellant  
██████████, ██████████, Appellant's witness  
██████████, ██████████, Appellant's witness

Charles Bryan, RN, Department's representative  
 Janice Ricciuti, RN, Department's representative  
 Jaimie Johnson, RN, ASCEND employee, Department's witness (by telephone)  
 Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED] 2018.

### **STATEMENT OF ISSUE**

The issue to be decided is whether ASCEND correctly determined that skilled nursing level of care in a facility was no longer medically necessary for the Appellant.

### **FINDINGS OF FACT**

1. The Appellant is a Medicaid patient at [REDACTED], a skilled nursing facility. (Department's Exhibit 5)(Department's Exhibit 6)
2. ASCEND is the Department's medical reviewer for skilled nursing level of care determinations for Medicaid recipients. (Department's witness's testimony)
3. On [REDACTED] 2018, ASCEND issued a *Notice of Action* to the Appellant stating that he no longer required skilled nursing level of care as of [REDACTED] 2018. The effective date of the *Notice of Action* was [REDACTED] 2018. (Department's Exhibit 5)
4. On [REDACTED], 2018, ASCEND issued a *Notice of Action* to the Appellant granting skilled nursing level of care through [REDACTED] 2018. (Department's Exhibit 7)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes designates 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. Section 17b-262-707 (a) of the Regulations of Connecticut State Agencies provides: The department shall pay for an admission that is medically necessary and medically appropriate as evidenced by the following:
  - (1) certification by a licensed practitioner that a client admitted to a nursing facility meets the criteria outlined in section 19-13-D8t(d)(1) of the Regulations of Connecticut State Agencies. This certification of the need for care shall be made prior to the department's authorization of payment. The licensed practitioner shall use and sign all forms specified by the department;
  - (2) the department's evaluation and written authorization of the client's need for nursing facility services as ordered by the licensed practitioner;
  - (3) a health screen for clients eligible for the Connecticut Home Care Program for Elders as described in section 17b-342-4(a) of the Regulations of Connecticut State Agencies;
  - (4) a preadmission MI/MR screen signed by the department; or an exemption form, in accordance with 42 CFR 483.106(b), as amended from time to time, for any hospital

- discharge, readmission or transfer for which a preadmission MI/MR screen was not completed; and
- (5) a preadmission screening level II evaluation for any individual suspected of having mental illness or mental retardation as identified by the preadmission MI/MR screen.
3. The department shall pay a provider only when the department has authorized payment for the client's admission to that nursing facility. Conn. Agencies Regs. § 17b-262-707 (b).
  4. 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).
  5. ASCEND's ██████████ 2018 *Notice of Action* granting the Appellant short-term nursing facility approval through ██████████, 2018 rescinds ASCEND's ██████████ 2018 *Notice of Action*.

### DECISION

ASCEND granted the Appellant approval for skilled nursing level of care through ██████████ 2018. The issue of this hearing is moot.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

Cc: Janice Ricciuti, DSS-Central Office  
Charles Bryan, DSS-Central Office  
Shirlee Stoute, DSS-Central Office  
Lisa Bonetti, DSS-Central Office  
Pam Adams, DSS-Central Office  
Jaimie Johnson, ASCEND-Maximus  
Angela Gagen, ASCEND-Maximus  
Joi Shaw, ASCEND-Maximus  
Connie Tanner, ASCEND-Maximus

### **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 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.