

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, Community Health Network of Connecticut ("CHNCT") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying as not medically necessary a prior authorization request for a custom fitted spinal orthosis for her son ██████████ (the "child").

On ██████████ 2018, the Appellant requested an administrative hearing to contest the denial of prior authorization for a custom fitted spinal orthosis for her child.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (the "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
Heather Shea, CHNCT Representative
Heather M. Lapointe, CHNCT Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the CHNCT's decision to deny the Appellant's request for a prior authorization for a custom fitted spinal orthosis for her child is correct.

FINDINGS OF FACT

1. The Appellant is the child's mother. The child's date of birth is [REDACTED] [REDACTED]. He is a Husky A Medicaid recipient. (Hearing record, Exhibit 1: prior authorization request, [REDACTED]/18)
2. The child's diagnoses' are pectus carinatum (a protrusion of the sternum of the chest), autism and asthma. (Hearing record, Exhibit 1: prior authorization request, [REDACTED]/18)
3. The Appellant does not have any respiratory, pulmonary, or cardio complications due to his diagnoses of pectus carinatum. (Appellant's mother's testimony, Exhibit 1: prior authorization request, [REDACTED]/18)
4. A fitted spinal orthosis would provide stabilization, protection and comfort. (Department's testimony)
5. On [REDACTED] 2018, CHNCT received a prior authorization request for a custom spinal orthosis from the Appellant's doctor and APRN. (Hearing record, Exhibit 1: prior authorization request, [REDACTED]/18)
6. The Appellant's mother wants the brace to prevent the condition from further worsening. (Testimony)
7. CHNCT is the Department's contractor for reviewing requests for prior authorization of medical treatment and durable medical equipment (DME). (Hearing Record)
8. [REDACTED], 2018 a reviewer from CHNCT reviewed the prior authorization request for a custom fitted spinal orthosis. The reviewer found that the child does not present with clinical symptoms, pain or functional impairments. The child has normal cardiopulmonary and respiratory function and an absence of musculoskeletal deformity. (Exhibit 4: MD review)

9. On [REDACTED], 2018, CHNCT denied the Appellant's request for a custom fitted spinal orthosis because it was not medically necessary. (Exhibit 5: Notice of Action, [REDACTED]/18)
10. On [REDACTED], 2018 the Appellant requested an administrative hearing to contest CHNCT's denial of prior authorization for the custom fitted spinal orthosis. (Exhibit 6: Hearing request)
11. Following the Appellant's request for a hearing, CHNCT requested additional medical information from the child's medical providers. (Exhibits 8 and 9: Medical records requests)
12. Additional medical records were received for the Department's review. The records received included the following: the child has Pectus carinatum and an otherwise normal chest, a doctor's visit for a cough in February, an emergency room visit for a sore throat and difficulty swallowing in April; a doctor's visit for treatment of asthma. (Exhibits 10, 13-15: Medical records)
13. On [REDACTED], 2018, CHNCT, after reviewing additional information received from the child's physicians, notified the Appellant that the denial of authorization for purchase of the custom fitted spinal orthosis was upheld. The reasons cited in this notification were that the child's pulmonary function is normal with no cardiopulmonary symptoms; there is no evidence of respiratory or organ compromise; a spinal orthosis will not help eliminate the child's coughing or asthma. (Exhibit 17: Medical Review Results)
14. On [REDACTED] 2018, CHNCT sent the Appellant a notice informing her that her appeal for authorization for a custom fitted spinal orthosis was denied because it is not medically necessary. The reason for the denial was that the medical information submitted does not show that the child has heart or lung problems because of a protruding sternum. (Exhibit 18: Denial notice, [REDACTED]/18)
15. "The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2018. Therefore, this decision is due not later than [REDACTED] 2018."

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

2. For the purposes of the administration of the medical assistance programs by the Department, "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)]


3. Payment for DME and related equipment is available for Medicaid clients who have a medical need for equipment that meets the department's definition of DME when the item is prescribed by a licensed practitioner, subject to the conditions and limitations set forth in sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies. Conn Agencies Regs. § 17b-262-675
4. Durable medical equipment" or "DME" means equipment that meets all of the following requirements:
 - (A) can withstand repeated use;
 - (B) is primarily and customarily used to serve a medical purpose;

(C) generally is not useful to a person in the absence of an illness or injury;
(D) is non-disposable
Conn Agencies Regs. § 17b-262-673(8)

5. In the child's case the custom fitted spinal orthosis is not medically necessary.
6. CHNCT correctly denied the Appellant's prior authorization request for purchase of the custom fitted spinal orthosis because it is not medically necessary.

DECISION

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


Thomas Monahan
Hearing Officer

C: Robert Zavoski, M.D. Medical Director
Fatmata Williams, DSS, Central Office
CHNCT Appeals

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 06105-3725.

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.