

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**

██████████  
████████████████████  
██████████  
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**PROCEDURAL BACKGROUND**

On ██████████ 2018, Community Health Network of Connecticut (“CHNCT”) issued ██████████ (the “Appellant”) a *Notice of Action* denying her medical provider’s request for prior authorization for a cranial remolding orthosis for ██████████. (the “child”), her minor child.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2018 postmarked request for an administrative hearing.

On ██████████ 2018, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2018. The OLCRAH granted the Appellant’s request for a postponement of the administrative hearing.

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 participated in the administrative hearing:

██████████, Appellant  
██████████, Appellant’s witness (husband)  
Robin Goss, RN, CHNCT’s representative  
Eva Tar, Hearing Officer

At the Appellant's request, the hearing officer extended the close of the hearing record for evidence through [REDACTED] 2018, for the submission of an updated opinion from the child's primary medical provider. As of [REDACTED] 2018, no evidence was received by the hearing officer from either the Appellant or CHNCT subsequent to the [REDACTED] 2018 proceeding.

On [REDACTED] 2018, the hearing officer closed the hearing record.

### **STATEMENT OF ISSUE**

The issue of this hearing is whether CHNCT correctly denied the Appellant's medical provider's request for prior authorization for a cranial remolding orthosis for the child.

### **FINDINGS OF FACT**

1. The child has medical coverage through the HUSKY program. (CHNCT's Exhibit 4)
2. The child's date of birth is [REDACTED]. (Appellant's testimony)
3. The child was delivered by primary cesarean section, with a normal head shape at birth. (CHNCT's Exhibit 1: p. 2)
4. The child has a diagnosis of positional plagiocephaly related to congenital torticollis. (CHNCT's Exhibit 14)
5. "Plagiocephaly" is flatness on the head. (CHNCT's representative's testimony)(CHNCT's Exhibit 4)
6. "Torticollis" is weakening of the neck muscles. (CHNCT's representative's testimony)
7. The child's plagiocephaly is "severe," as his transdiagonal difference equals 13 mm. (CHNCT's Exhibit 16: p. 4)
8. The child's plagiocephaly does not merit surgery. (CHNCT's Exhibit 1: p. 3)
9. The child's primary medical provider is [REDACTED] [REDACTED] M.D. (Appellant's testimony)(CHNCT's Exhibit 14: p.2)
10. On [REDACTED] 2018, [REDACTED] M.D., a plastic surgeon with the [REDACTED] [REDACTED] examined the child. (CHNCT's Exhibit 1: p. 2)
11. On or around [REDACTED] 2018, [REDACTED], M.D., observed the child as having balance problems, difficulty sitting up, and difficulty lifting his head during tummy time. (CHNCT's Exhibit 14: p. 2)

12. On [REDACTED], 2018, the child demonstrated age appropriate motor skills. He was able to perform creeping on hands and knees, transition in and out of sitting through either side, sit independently with improved balance and protective reactions, and stand with good weight bearing through flat feet with support at pelvis. (CHNCT's Exhibit 11: p. 10)
13. On [REDACTED] 2018, the child was discharged from physical therapy as he met his treatment goals to address deficits in strength, range of motion, posture, and gross motor skills. (CHNCT's Exhibit 11: p. 10)
14. Plagiocephaly may cause the following developmental milestones to not be met: rolling, sitting, and creeping. (CHNCT's Exhibit 16)
15. The hearing record contains no medical evidence to support a finding of fact that the child's visual acuity is impeded or impaired by his plagiocephaly.
16. The hearing record contains no medical evidence to support a finding a fact that the child's ability to hear is impeded or impaired by his plagiocephaly.
17. On [REDACTED], 2018, [REDACTED] M.D., referred the child to [REDACTED] [REDACTED] for instructions on repositioning and neck exercises and a DOC Band Treatment (if indicated), one unit, treatment time not to exceed six months. (CHNCT's Exhibit 1: p.4)
18. On [REDACTED] 2018, [REDACTED]. submitted a prior authorization request to CHNCT for a DOC Band (the "cranial remolding orthosis"). (CHNCT's Exhibit 1)
19. In the absence of a child having had surgery for craniosynostosis (the premature closure of sutures on the cranium), OR severe plagiocephaly with the child not meeting developmental milestones secondary to plagiocephaly (i.e. rolling, sitting, creeping) and marked asymmetry had not been substantially improved following a two-month trial of conservative treatment, CHNCT considers the use of a cranial remolding orthosis to be a cosmetic procedure. (CHNCT's Exhibit 16: p. 3, p.4)(CHNCT's representative's testimony)
20. On [REDACTED] 2018, CHNCT denied [REDACTED] request for prior authorization of cranial remolding orthosis, citing lack of medical necessity. (CHNCT's Exhibit 4)
21. On [REDACTED] 2018 and [REDACTED] 2018, CHNCT requested additional information from [REDACTED], M.D., [REDACTED] M.D., and [REDACTED] [REDACTED] [REDACTED] (physical therapy). (CHNCT's Exhibit 7 through 10)(CHNCT's Exhibits 12 through 14)

22. On [REDACTED], 2018, [REDACTED] provided the child's physical therapy records to CHNCT. (CHNCT's Exhibit 11)
23. On [REDACTED] 2018, [REDACTED], M.D., provided a [REDACTED] 2018 correspondence to CHNCT. (CHNCT's Exhibit 14)
24. [REDACTED] evaluated the child and declined services due to lack of developmental delay. (CHNCT's Exhibit 15: p. 2)
25. On [REDACTED] 2018, after completing a second review of the medical provider's request for prior authorization of the cranial remolding orthosis, CHNCT denied the request as not clinically appropriate in terms of type, frequency, timing, site, extent and duration. (CHNCT's Exhibit 15)(CHNCT's Exhibit 16)
26. Connecticut General Statutes § 17b-61(a) requires that a final decision be issued within 90 days of the request for an administrative hearing. On [REDACTED] 2018, the OLCRAH received the Appellant's [REDACTED] 2018 postmarked administrative hearing request and scheduled the administrative hearing for [REDACTED] 2018. The OLCRAH granted the Appellant's request for a 20-day postponement. This final decision was due by [REDACTED] 2019, and therefore is timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 (a)(6) of the Connecticut General Statutes as provided in the 2018 Supplement to the General Statutes of Connecticut designates the Department of Social Services as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

Section 17b-262 of the Connecticut General Statutes provides in part that the Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.

2. "The department shall not pay for the following goods or services or goods or services related to the following: (12) Any procedures or services of an unproven, educational, social, research, experimental or cosmetic nature; any diagnostic, therapeutic or treatment services in excess of those deemed medically necessary by the department to treat the client's condition or services not directly related to the client's diagnosis, symptoms or medical history." Conn. Agencies Regs. § 17b-262-342 (12).

"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).

**CHNCT acted within its authority when it reviewed the Appellant’s medical provider’s request for prior authorization for the purpose of determining whether the cranial remolding orthosis was “medically necessary” treatment, as “medically necessary” is defined by Conn. Gen. Stat. § 17b-259b (a).**

3. “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).

**CHNCT correctly considered medical guidelines, clinical criteria, as well as additional items provided by the child’s medical providers as part of its process of determining whether medical necessity was met.**

**The cranial remolding orthosis is not medically necessary for the child; although his plagiocephaly is severe, through physical therapy he met his developmental milestones appropriate for his age as associated with rolling, sitting, and creeping.**

**The cranial remolding orthosis would be an intervention to address the cosmetic issue of asymmetry of the child’s head; it would not treat a health issue or functional impairment caused by the asymmetry.**

**CHNCT correctly denied the Appellant’s medical provider’s request for prior authorization for a cranial remolding orthosis for the child.**

### **DISCUSSION**

“The majority of cases of plagio- or brachiocephaly are temporary cosmetic conditions that resolve spontaneously with time or movement.”<sup>1</sup> In some instances, plagiocephaly

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<sup>1</sup> *Emphasis in original.* (CHNCT’s Exhibit 16)

may lead to developmental delays in achieving age-appropriate milestones associated with rolling, sitting, and creeping.

The Appellant alleges—without supporting evidence—that the child continued to demonstrate developmental delays at the time of CHNCT's ██████████ 2018 denial of prior authorization of the cranial remolding orthosis. The hearing record does not support the Appellant's assertion: 1) on ██████████ 2018, the child was discharged from physical therapy for being able to perform age appropriate gross motor skills, including: creeping on hands and knees, transitioning, sitting independently with improved balance, and having met his goals; and 2) ██████████ had evaluated the child and had declined services, citing lack of developmental delay.<sup>2</sup>

The Appellant has not established that the cranial remolding orthosis is necessary to treat a medical need, e.g. that the shape of the child's head currently impairs his ability to develop age appropriate motor skills. With respect to this specific child, this treatment is cosmetic and cannot be funded by the HUSKY program.

### **DECISION**

The Appellant's appeal is DENIED.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

cc: Robin Goss, CHNCT  
Fatmata Williams, DSS-Central Office

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<sup>2</sup> (CHNCT's Exhibit 11)(CHNCT's Exhibit 15)

### **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.