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 #: [redacted]
Request #: [redacted]

NOTICE OF DECISION

PARTY

[redacted]
[redacted]
[redacted] 06511

PROCEDURAL BACKGROUND

On [redacted] 2017, Community Health Network of Connecticut ("CHNCT") issued [redacted] (the "Appellant") a notice stating that it had denied his medical provider's request for prior authorization of the rental of a pneumatic compression device with calibrated gradient pressure and segmented pneumatic full leg appliance as not medically necessary.

On [redacted] 2017, the Appellant's requested an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") because he disagrees with the CHNCT's decision.

On [redacted], 2018, the OLCRAH issued a notice to the Appellant scheduling 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, the OLCRAH held an administrative hearing. These individuals participated in the proceeding:

[redacted], the Appellant
Fabiola Goin, RN, Appeals & Grievances Analyst, CHNCT
Maureen Foley-Roy, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether CHNCT correctly denied prior authorization for rental through the Medicaid program of a pneumatic compression devise with calibrated gradient pressure and segmental pneumatic full leg appliance.

FINDINGS OF FACT

1. The Appellant is [redacted] years old with chronic lower leg lymphedema secondary to venous insufficiency from a gunshot wound. The chronic swelling has led to pain and mobility impairment. The Appellant has used a variety of compression devices, elevation and exercise for more than twenty years and these treatments have not been able to minimize the swelling

or pain. (Exhibit 1: Prior authorization request)

2. The Appellant has medical coverage through HUSKY D Medicaid programs. (Hearing Summary)

3. CHNCT is the Medicaid program's medical reviewer with respect to assessing requests for prior authorization of medical equipment for program participants. (CHNCT's representative's testimony)

4. On [redacted], 2017, CHNCT received a prior authorization request for a Flexitouch programmable, segmented pneumatic compression device with calibrated gradient pressure and associated limb garments. (Exhibit 1)

5. The Appellant's APRN choose the Flexitouch device specifically because it uses lighter pressure to ensure tolerance with treatment. (Exhibit 1, p.5: letter from [redacted])

6. The Appellant has never tried other compression devices. (Appellant's testimony)

7. On [redacted] 2017, CHNCT denied the request for the Flexitouch pneumatic compression device because the Appellant had not had a 4 week trial with a basic pump. (Exhibit 2: Medical Review)

8. On [redacted] 2017, CHNCT sent the Appellant a notice advising him that the pneumatic compression device with calibrated gradient pressure and segmented pneumatic full leg appliance had been denied because it was not medically necessary. The notice stated that he had not tried other types of pneumatic compressors to relieve his symptoms and that if other compressors were found to be unsuccessful, another request could be submitted. (Exhibit 3: Notice of Action for Denied Services or Goods)

9. On [redacted], 2017 and [redacted], 2017, CHNCT sent letters to the Appellant's medical provider and the vendor for compression devices and advised both that the advanced compression device could not be approved without medical notes from a 4 week trial of a consistent use of a basic pump which showed that it was not effective in treating the Appellant's symptoms. The notes would need to show specific information from the trial regarding frequency/duration of treatment, duration of trial, prescribed settings and treatment response. The letter also indicated that a letter of medical necessity supporting the need for the rental of the advanced device rather than the basic device. (Exhibit 6: Letter to [redacted] dated [redacted], 2017 and Exhibit 7: Letter to Tactile Systems Technology Inc. dated [redacted] 2017)

10. On [redacted] 2017, Tactile Systems sent CHNCT the identical information that had been submitted with the initial prior authorization request. (Exhibit 8: Fax from Tactile Medical dated [redacted] 2017)

11. On [redacted], 2018, [redacted] office sent CHNCT identical information which had been provided with the initial prior authorization request. The [redacted], 2017 letter from [redacted], was resubmitted on [redacted] of Medicine Letterhead with a date of [redacted] 2018. [redacted] office sent CHNCT an article with the clinical highlights of the Flexitouch advanced Pneumatic Compression Device. (Exhibit 10: Fax received from Vascular Surgery on [redacted], 2018)

12. On [redacted] 2018, CHNCT reviewed the request for the rental of the pneumatic compression device with calibrated gradient pressure and segmented pneumatic full leg appliance with the information submitted for the appeal by the Appellant and again determined that even with the new information, it could not determine that the advanced

pneumatic compression device was the most appropriate and medically necessary to meet the Appellant's needs because the Appellant had not trialed a basic compression device for four weeks. (Exhibit 12: Medical Review)

13. On [redacted] 2018, CHNCT issued a notice to the Appellant that it was denying the Appellant's appeal for the authorization of the rental of the pneumatic compression device with calibrated gradient pressure and segmented pneumatic full leg appliance because he had not provided documentation that a basic compression device does not meet his needs. (Exhibit 13: Letter from CHNCT dated [redacted], 2018)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department of Social Services to be the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

3. Section 7b-262 of the Connecticut General Statutes, states in part, that the Commissioner may make such regulations as are necessary to administer the Medical Assistance Program.

4. Sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies set forth set forth the Department of Social Services requirements for the payment of durable medical equipment ("DME") to providers, for clients who are determined eligible to receive services under Connecticut Medicaid pursuant to section 17b-262 of the Connecticut General Statutes.

5. Section17b-262-673of the Regulations of Connecticut State Agencies provides that "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; and (D) is non-disposable.

6. Section 17b-262-676 (a)(1) of the Regulations of Connecticut State Agencies provides that the department shall pay for the purchase or rental and the repair of DME, except as limited by sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies, that conforms to accepted methods of diagnosis and treatment and is medically necessary and medically appropriate.

7. Section 17b- 259b (a) of the Connecticut General Statutes provides that 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.

8. Section 17b-262- 676 (b)(1) of the Regulations of Connecticut State Agencies provides that he department shall not pay for anything of an unproven, experimental or research nature or for services in excess of those deemed medically necessary by the department to treat the recipient's condition or for services not directly related to the recipient's diagnosis, symptoms, or medical history.

9. CHNCT correctly determined that the Appellant did not show that a basic pump would not be effective in treating his symptoms because he did not have a trial with the basic pump.

10. CHNCT correctly determined that the Flexitouch programmable, segmented pneumatic compression device with calibrated gradient pressure and associated limb garments is not medically necessary for the Appellant because it is not known whether the basic pump could produce equivalent therapeutic results at a lesser expense.

DISCUSSION

The regulations specifically state that medically necessary services must not be "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". In prescribing the advanced Flexitouch programmable, segmented pneumatic compression device with calibrated gradient pressure and associated limb garments without first having a trial of a basic compression device, the Appellant's provider did not ensure that the Appellant was receiving the least costly of effective treatments.

DECISION

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

Maureen Foley-Roy

Maureen Foley-Roy,
Hearing Officer

Cc: Robert Zavoski,MD, DSS Medical Director
Fatmata Williams, DSS
CHNCT Appeals Team
Fabiola Goin, CHNCT Appeals & Grievances

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.