

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 #: ██████████
Request #: ██████████

NOTICE OF DECISION

PARTY

██████████
████████████████████
██████████
██████████ 06484

PROCEDURAL BACKGROUND

On ██████████ 2017, Community Health Network of Connecticut (“CHNCT”) issued ██████████ (the “Appellant”) a notice stating that it had denied his medical provider’s request for prior authorization of a Quickie 2 ultra-lightweight wheelchair with XTender power assist because it was not medically necessary.

On ██████████ 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 ██████████, 2017, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for ██████████ 26, 2018.

On ██████████ 2018, the Appellant requested that the hearing take place at the facility where he resides.

On ██████████, 2018, OLCRAH reissued a notice scheduling the administrative at the Appellant’s resident for ██████████ 2018.

On ██████████ 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 hearing:

- ██████████, the Appellant
- ██████████ the Appellant’s son
- ██████████, Assisted Technology Professional (“ATP”), National Seating and Mobility Center
- ██████████, Occupational Therapist, ██████████ Center
- Rosa Maurizio, RN, Appeals & Grievances Analyst, CHNCT
- ██████████ LPN, ██████████ Center
- Maureen Foley-Roy, Hearing Officer

The hearing officer held the hearing record open for the submission of additional evidence. The record closed on ██████████, 2018.

STATEMENT OF ISSUE

The issue to be decided is whether CHNCT correctly denied prior authorization for payment through the Medicaid program for the Quickie 2 ultra-lightweight wheelchair with XTender power assist.

FINDINGS OF FACT

1. The Appellant is ■ years old and he resides in a skilled nursing facility. (Exhibit 1: Prior Authorization request)
2. The Appellant's diagnoses include ischemic cardiomyopathy, acute osteomyelitis, coronary artery disease, diabetes mellitus, hypertension, and a history of open wound on his foot. The Appellant's cardiac and vascular statuses are impaired. The Appellant also experiences intermittent pain in his neck, lower back and right upper extremity. (Exhibit 1)
3. The Appellant has CHF and can develop edema at times. It is sometimes related to weight gain and is treated with diuretics and subsides. (LPN's testimony)
4. The Appellant does not have cognitive impairments that would limit his ability to use a power wheel chair. (Exhibit 8: letter from occupational therapist)
5. The Appellant currently uses a manual wheelchair to get around the facility, to go outside and to leave the facility for outings. (Exhibit 8)
6. The Appellant's wheelchair allows him a great measure of independence. He gets himself to the dining room for meals, to the café to have coffee and read newspapers and is able to get outdoors. (Occupational therapist's testimony)
7. The Appellant has a recliner in his room, which he uses when not in his wheelchair. The recliner allows for him to raise his lower extremities to help with his edema. (LPN's testimony)
8. Using the manual wheelchair is getting more difficult for the Appellant. Navigating carpeting and the inclines are increasingly problematic. He has to take more frequent rest breaks as he tires quickly after propelling himself around the facility. He also experiences pain in his back, shoulder and neck after using his manual wheelchair. (Appellant's testimony)
9. The Appellant has medical coverage through HUSKY C Medicaid programs. (Hearing Summary)
10. 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)
11. From ■ 2017 through ■, 2017, the Appellant underwent a trial of a push assisted wheelchair under the supervision of the occupational therapy department at the facility where he resides. (Exhibit 15: Occupational Therapy notes)
12. A push assisted wheelchair is a manual wheelchair with an added electric assist that allows for movement of the wheelchair by the user with less effort than a totally manual wheelchair. It amplifies the efforts of the wheelchair user. The push assisted wheelchair has been described as a manual wheelchair with a battery operated booster. (Exhibit 13: Quickie brochure and ATP's testimony)

13. The Appellant demonstrated that he could operate the push assisted wheelchair successfully. It allowed him to go further in shorter periods of time with less rest periods. He was able to use it outdoors and on carpets with none of the negative effects caused by using the completely manual wheelchair on such surfaces. (Exhibit 15)
14. The Appellant's range of motion issues and neuropathy in his hands did not impede his ability to use the push assisted wheelchair. (Appellant's testimony, occupational therapist testimony)
15. The Appellant reported a decrease in pain in his back, shoulder and neck and much less fatigue during the trial with the push assisted wheelchair. The Appellant was impressed and pleased with his ability to propel his wheelchair. (Exhibit 15 and Appellant's testimony)
16. The Quickie 2 ultra-lightweight wheelchair with XTender power assist has options that can be customized to suit the Appellant. There are extenders which will allow his leg to be raised. Hand grips can be included to accommodate the neuropathy in his hands. (Exhibit 13: Quickie brochure and ATP's testimony)
17. Conventional and prevailing belief in nursing is that it is most beneficial for patients to do as much as they can for themselves for as long as they can. (LPN's testimony)
18. The Appellant's past medical history shows that periods of inactivity are detrimental for the Appellant and have an adverse impact on his health. It is critical that the Appellant maintain as much mobility as possible with his upper body. (Appellant's son's testimony)
19. On ██████████, 2017, CHNCT received a prior authorization request for the Quickie 2 Ultra-lightweight wheelchair with XTender power assist for the Appellant. (Exhibit 1)
20. On ██████████ 2017, CHNCT denied the Appellant's medical providers' request for prior authorization of the Quickie 2 ultra-lightweight wheelchair with XTender power assist as not medically necessary because it was not based upon an assessment of the Appellant's specific medical condition. The notice for denied services stated that based upon the Appellant's pain, skin problems, weakness in arms and legs and heart issues, the Quickie 2 might not be the most appropriate type of chair. CHNCT stated that consideration would be given to a power wheelchair which tilted and is easier to move. (CHNCT's Exhibit 4: Notice of Action for Denied Services or Goods dated ██████████17)
21. A Tilt in Space wheelchair is operated with a joy stick feature. It is usually prescribed for individuals who do not have the strength or ability in their upper bodies to operate a wheelchair. (LPN's testimony & ATP's testimony)
22. The Tilt in Space wheelchair is considerably more costly than the Quickie 2 Ultra-light wheelchair. (ATP's testimony and CHNCT representative's testimony)
23. On ██████████ 2017, the Appellant requested an appeal of the denial. (Exhibit 5: Appeal request)
24. On ██████████, 2017, the Appellant's occupational therapist submitted a letter to CHNCT advising that the Appellant's wound on his foot had healed. She also stated that even though the Appellant did have neuropathy in his hands and feet and some range of motion deficits, he had demonstrated sufficient strength to operate the power assist wheelchair. The occupational therapist reported that the Appellant's pain and fatigue were lessened with use of the Quickie 2 power assist wheelchair. (Exhibit 8: Letter from Rehab)

25. The occupational therapist stated that the Appellant had the ability to reposition himself independently and would not benefit from a tilt in space wheelchair. She further expressed that a tilt in space wheelchair would inhibit the Appellant's ability to propel himself in the wheelchair using his arms and upper body. (Exhibit 8)
26. On [REDACTED], 2017, a nursing supervisor at the facility where the Appellant lives wrote a letter advising CHNCT that the Appellant's pressure wound had healed to a fragile scar as of [REDACTED] 2017 and that his CHF symptoms are generally under control. (Exhibit 12: Letter from nursing supervisor)
27. On [REDACTED] 2018, CHNCT reviewed the request for the Quickie 2 ultra-lightweight manual wheelchair with XTender power assist system 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 Quickie 2 Power Assist wheelchair was the most appropriate and medically necessary to meet the Appellant's needs. (Exhibit 10: Medical review of [REDACTED] 2018)
28. On [REDACTED] 2018, CHNCT issued a notice to the Appellant that it was denying the Appellant's appeal for the authorization of the Quickie 2 ultra-lightweight manual wheelchair with XTender power assist system as it was not medically necessary. (Exhibit 11: Letter re: Appeal 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 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. "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. Conn Agencies Regs. § 17b-262-673.
6. A Quickie 2 ultra-lightweight manual wheelchair with XTender power assist system meets the definition of durable medical equipment, per the regulations.
7. Payment for DME and related equipment is available for Medicaid clients who have a medical need for such equipment which 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.

8. When the item for which Medicaid coverage is requested is not on the department's fee schedule, prior authorization is required by the department. The recipient requesting Medicaid coverage for a prescribed item not on the list shall submit such prior authorization request to the department through an enrolled provider of DME. Such request shall include a signed prescription and shall include documentation showing the recipient's medical need for the prescribed item. If the item for which Medicaid coverage is requested is not on the department's fee schedule, the provider shall also include documentation showing that the item meets the department's definition of DME and is medically appropriate for the client requesting coverage of such item. Conn Agencies Regs. 17b-262-676(a)(4).
9. 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. Conn Agencies Regs. § 17b-262-676 (a)(1).
10. 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).
11. The Quickie 2 ultra-lightweight wheelchair with XTender power assist and elevating leg rests would accommodate the Appellant's needs for positioning, mobility and support related to his various medical diagnoses. The Quickie 2 wheelchair would allow the Appellant to continue the use of his upper body, which would be beneficial for him in maintaining strength and is consistent with the generally accepted standard that a patient do as much for him or herself as possible. The Quickie 2 ultra-lightweight wheelchair with XTender power assist and elevating leg rests is also less costly than a power wheelchair that tilts, which CHNCT suggested that the Appellant consider as an alternative.
12. The Quickie 2 ultra-lightweight wheelchair with XTender power assist and elevating leg rests is medically necessary for the Appellant.
13. CHNCT incorrectly determined that the Quickie 2 ultra-lightweight wheelchair with Tender power assist and elevating leg rests is not medically necessary for the Appellant.

DISCUSSION

CHNCT denied the request for the Quickie Power Assist wheelchair stating that it was not medically necessary because it was not the most appropriate for the Appellant. CHNCT listed the Appellant's various medical conditions in their denial. CHNCT did not address the additional information submitted by the Appellant that his ankle wound had healed and that

he experienced less shoulder/back/neck pain and fatigue when using the power assist wheelchair. (CHNCT did not seem to consider the possibility that the shoulder/back/neck pain may have been caused by the operation of the manual wheelchair as suggested by the fact that he experienced less pain when using the Quickie Power Assist wheelchair.) CHNCT did not address the Appellant's successful trial with the Quickie Power Assist wheelchair. CHNCT suggested that consideration would be given to a request for a wheelchair with even more advanced features, (and therefore more costly) which the Appellant would not have to propel at all. The Appellant and all of his advocates (family, nursing staff, therapist) agree that as the Appellant can still use his arms and upper body to propel the wheelchair, it would be in his best interest to continue to do so. CHNCT did not provide convincing evidence that the Quickie 2 ultra-light wheelchair is not medically appropriate for the Appellant.

DECISION

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

ORDER

CHNCT will approve the Appellant's medical provider's [REDACTED] [REDACTED] 2017 prior authorization request for the Quickie 2 ultra-lightweight wheelchair with XTender power assist and elevating leg rests.

Compliance with this order is due by [REDACTED] 2018 to the undersigned and shall consist of documentation that the Quickie 2 ultra-lightweight wheelchair with XTender power assist and elevating leg rests has been approved.

Maureen Foley-Roy,
Hearing Officer

Cc: Robert Zavoski, MD, DSS Medical Director
Rosa Maurizio, 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.