

**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

Case: [REDACTED]
Client: [REDACTED]
Request: [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2017, Community Health Network of Connecticut (“CHNCT”) issued [REDACTED] (the “Appellant”) a notice stating that it had denied [REDACTED] (the “medical provider”)’s request for prior authorization of HUSKY Medicaid payment for a magnetic resonance imaging (“MRI”) of the Appellant’s cervical spine, without contrast.

On [REDACTED], 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On [REDACTED], 2017, 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 by video and telephone conferencing:

[REDACTED], Appellant
Rosa Maurizio, RN, CHNCT’s representative
Tracy Bailey, RN, eviCore, CHNCT’s witness
Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED] 2018.

STATEMENT OF ISSUE

The issue to be decided is whether CHNCT correctly denied the Appellant's medical provider's request for prior authorization of HUSKY Medicaid payment for an MRI of the Appellant's cervical spine, without contrast.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED]. (CHNCT's Exhibit 1)
2. The Appellant has medical coverage through the HUSKY program. (CHNCT's Exhibit 3)
3. The Appellant has a knot in his neck and numbness in his left arm. (Appellant's testimony)
4. The Appellant has been losing feeling in his left arm for the last four years; the numbness is getting worse and is now affecting two fingers of his left hand. (Appellant's testimony)
5. The Appellant has a diagnosis of multiple-level cervical spondylosis with radiculopathy. (CHNCT's Exhibit 1)
6. The Appellant has neuro deficit on the left arm and hand (motor sensory). (CHNCT's Exhibit 1)
7. [REDACTED] M.D. (the "treating doctor") is treating the Appellant. (Appellant's testimony)(Hearing record)
8. On or around [REDACTED], 2017, the treating doctor referred the Appellant to [REDACTED] [REDACTED] for X-rays of the Appellant's cervical spine. (CHNCT's Exhibit 1)
9. On [REDACTED] 2017, upon review of X-rays of the Appellant's cervical spine, a [REDACTED] [REDACTED] physician determined that the Appellant had mild degenerative changes: normal vertebral height and alignment; normal disc spaces; mild narrowing of the disc space at multiple levels; small osteophytes; mild degenerative changes of the lower facet joints; encroachment on the neural foramine bilaterally at C2-C3 and C3-C4; and encroachment on the left at C4-C5. (CHNCT's Exhibit 1)
10. On or around [REDACTED] 2017, the treating doctor referred the Appellant to [REDACTED] [REDACTED] for a physical therapy assessment. (CHNCT's Exhibit 8, p.3)
11. On [REDACTED] 2017, [REDACTED] assigned the Appellant a physical therapy treatment plan. (CHNCT's Exhibit 8, p.4)

12. In the period from [REDACTED] 2017 through [REDACTED] 2017, the Appellant participated in nine sessions of physical therapy. (CHNCT's Exhibit 8, p.5 through p.13)
13. The Appellant reported a decrease in pain or "some relief" in his neck area at the conclusion of the physical therapy sessions; he also consistently reported an increase in the numbness in his left arm. (CHNCT's Exhibit 8, p.5 through p.13)(CHNCT's Exhibit 9, p.13)
14. The physical therapy was making things worse. (Appellant's testimony)
15. The Appellant did not complete a full course of physical therapy; he had three more sessions left. (Appellant's testimony)
16. The Appellant has been prescribed Gabapentin for pain. (Appellant's testimony)(CHNCT's Exhibit 9, p.8)
17. Gabapentin is used for pain associated with tingling and nerve damage. (CHNCT's representative's testimony)
18. The Appellant met with the treating doctor for follow-up visits on the following dates: [REDACTED] 2017; [REDACTED] 2017; [REDACTED], 2017; [REDACTED], 2017; and [REDACTED] 2017. (CHNCT's Exhibit 9, p.2, p.9, p.11, p.17, p.24, p.32)
19. The Appellant's diagnosis of cervical spondylosis with radiculopathy and associated medications and treatment is listed in each of the office visits with the treating doctor that occurred in the period from [REDACTED] 2017 through [REDACTED] 2017. (CHNCT's Exhibit 9)
20. On [REDACTED] 2017, the treating doctor found on exam of the Appellant that the sensory was reduced in the left median, radial nerve dermatomes, and also in lateral cutaneous nerve. The left radialis and brachioradialis reflexes (BR) were diminished. (CHNCT's Exhibit 9, p.13)
21. A "dermatome" is a nerve; one is located where you feel the pulse on your wrist. It affects the thumb and forefinger. (CHNCT's representative's testimony)
22. On [REDACTED], 2017, the Appellant's medical provider contacted CHNCT to request prior authorization of an MRI of the Appellant's cervical spine, without contrast, as ordered by the treating doctor. (CHNCT's Exhibit 1)
23. An MRI uses magnetic fields and radio waves. (CHNCT's witness' testimony)
24. An MRI that is detailed to the cervical spine area could show nerve impingement. (CHNCT's witness's testimony)

25. Depending on how a patient presents – whether it is due to an initial trauma, severe symptoms, or weakness on physical exam – an MRI may be warranted. (CHNCT’s witness’s testimony)
26. When a person has a chronic condition that over the course of treatment hasn’t gotten better, an MRI is used to see if something was overlooked. (CHNCT’s witness’s testimony)
27. eviCore is CHNCT’s radiology subcontractor for evaluating provider requests. (CHNCT’s witness’s testimony)
28. eviCore uses guidelines to assess whether to grant prior authorization for radiological procedures. (CHNCT’s witness’s testimony)(CHNCT’s Exhibit 13)
29. According to eviCore’s guidelines, any progression of sensory deficits or reflex demonstrated by objective clinical evaluation would indicate that an MRI is warranted. (CHNCT’s witness’s testimony)
30. On [REDACTED], 2017, CHNCT denied the prior authorization request for MRI of the Appellant’s cervical spine, without contrast, citing: 1) the Appellant had not demonstrated failure to improve (within three months) a six-week trial of physician-guided clinical care (treatment or observation) with clinical evaluation; and 2) the Appellant did not demonstrate any signs or symptoms such as significant motor weakness, recent malignancy or infection, or cauda equina syndrome, for which conservative treatment is not needed. (CHNCT’s Exhibit 3)
31. On [REDACTED] 2017, the treating doctor found on exam of the Appellant that the Appellant’s sensation in his left forearm and left first and second finger was reduced to light and sharp; his deep tendon reflex (DTR) was diminished in radialis and BR on the left. The Appellant had a decreased sensation to light touch and sharp left thumb, with index palmar and dorsal reflexes asymmetric/diminished. (CHNCT’s Exhibit 9, p.5)
32. On [REDACTED], 2017, CHNCT issued a notice to the Appellant denying the prior authorization request for MRI of the Appellant’s cervical spine, without contrast, noting that CHNCT had reviewed additional information obtained from the Appellant, the Appellant’s physical therapy notes from [REDACTED] 2017 through [REDACTED] 2017, and the treating doctor’s clinical office notes from [REDACTED] 2017 through [REDACTED] 2017. (CHNCT’s Exhibit 12)
33. The Appellant’s symptoms of numbness in his left arm and two fingers of his hand failed to improve in the period from [REDACTED] 2017 through [REDACTED] 2017. (CHNCT’s Exhibit 8)(CHNCT’s Exhibit 9)
34. [REDACTED] 2017 through [REDACTED] 2017 is a period that exceeds six weeks.

35. On [REDACTED] 2017, [REDACTED] received a referral from the treating doctor's office with respect to the Appellant. (CHNCT's Exhibit 13)
36. The neurologist's office staff told the Appellant to wait for an MRI and call back for an appointment. (Appellant's testimony)
37. It is becoming increasingly common for neurologists' offices to wait for a patient's MRI before arranging for a consultation with that patient, so as to not waste time by scheduling multiple office visits. (CHNCT's representative's testimony)(CHNCT's Exhibit 13)
38. On [REDACTED], 2017, CHNCT reaffirmed its prior denial of prior authorization of an MRI of the Appellant's cervical spine, without contrast. (CHNCT's Exhibit 12)
39. An MRI of the Appellant's cervical spine will accurately identify the location and scope of the Appellant's nerve impingement that is causing the numbness in his left arm and two fingers of his left hand.

CONCLUSIONS OF LAW

1. 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. 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).
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).

4. 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).
5. The hearing record supports a finding that an MRI of the Appellant's cervical spine is clinically appropriate in terms of type, frequency, timing, site, extent, duration and is considered effective for the diagnosis and treatment of the Appellant's medical condition.
6. An MRI of the Appellant's cervical spine is medically necessary.
7. CHNCT incorrectly denied the Appellant's medical provider's request for prior authorization of HUSKY Medicaid payment for an MRI of the Appellant's cervical spine, without contrast.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. CHNCT will approve prior authorization of HUSKY Medicaid payment for an MRI of the Appellant's cervical spine.
2. Within 21 calendar days of the date of this decision, or ██████ ██, 2018, documentation of compliance with this order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: CHNCT
Fatmata Williams, DSS-Central Office

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.