

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT06105-3725

██████████, 2018  
Signature Confirmation

Client ID # ██████████  
Request # ██████████

**NOTICE OF DECISION**  
**PARTY**

██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2017, Community Health Network of Connecticut (“CHNCT”) sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of complex jaw surgery.

On ██████████, 2017, the Appellant requested an administrative hearing to contest the denial of complex jaw surgery.

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2017.

On ██████████, 2017, in accordance with sections 17b-60, 17b-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  
██████████, Appellant’s mother  
Fabiola Goin, Appeals and Grievance Analyst, CHNCT’s Representative  
Roberta Gould, Hearing Officer

At the Appellant’s request the hearing record was held open for the submission of additional evidence. The hearing record closed on ██████████, 2018.

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether CHNCT's decision to deny complex jaw surgery is correct.

## **FINDINGS OF FACT**

1. The Appellant is a recipient of the Husky Medicaid program. (Hearing record)
2. The Appellant is ■ years old and has a diagnosis of dentofacial anomaly, maxillary hypoplasia and jaw asymmetry. (Exhibit 1: Prior Authorization request with photos, Exhibit 2: Medical documentation from Yale School of Medicine and Hearing summary)
3. The Appellant suffers from lisping, alignment issues with upper and lower jaws, teeth chipping and difficulty swallowing. (Exhibit 1, Exhibit 2, Exhibit 16: Letter from Nancy Hurlburt, M.D. and Appellant's mother's testimony)
4. The Appellant has not had speech therapy and has not suffered from any weight loss and is not experiencing any pain related to his jaw. (Exhibit 1, Exhibit 2 and Appellant's testimony)
5. ■ is the Appellant's plastic surgeon ("the treating physician"). (Exhibit 1 and Hearing summary)
6. The Appellant began orthodontia treatment in ■ 2017. (Exhibit 9: Medical record request and Hearing summary)
7. The Appellant will need orthodontic therapy to ensure proper alignment of his teeth before having jaw surgery intervention. (Exhibit 5: Notice of action dated ■/2017, Exhibit 14: Medical review results dated ■/2017 and Hearing summary)
8. CHNCT has approved Phase I orthodontic treatment in order to treat the Appellant's alignment issues. (Exhibit 5 and CHNCT representative's testimony)
9. On ■ 2017, CHNCT conducted a review of the medical information submitted by the Appellant's physician's and determined that the request for complex jaw surgery was denied because medical records showed no documentation of orthodontia evaluation for handicapping malocclusion, (Exhibit 4: Medical review dated ■/2017 and Hearing summary)
10. On ■ 2017, CHNCT added an addendum to the medical review conducted on ■ 2017, stating that the Appellant has been undergoing orthodontia care since ■ 2017 and that he needs to be re-evaluated after completing 1-2 years of orthodontia. (Exhibit 4 and Hearing summary)



11. On [REDACTED] 2017, CHNCT sent the Appellant a *Notice of Action for Denied Services or Goods* denying the request for complex jaw surgery because the Appellant has recently started orthodontia treatment and should be re-evaluated for medical necessity for jaw surgery after receiving one to two years of orthodontia. CHNCT noted that complex jaw surgery is not considered medically necessary at this time as he presents with no need for speech therapy or with weight loss issues. (Exhibit 5 and Hearing summary)
12. On [REDACTED], 2017, the Appellant requested an appeal and administrative hearing to contest the denial of complex jaw surgery because the alignment issues are not merely due to the position of his teeth. He states that his jaws need surgical alignment as well and that the positioning of his teeth is creating chipping of the teeth which puts his oral health in jeopardy. (Exhibit 6: Administrative hearing request)
13. On [REDACTED], 2017, CHNCT sent a medical record request to [REDACTED] requesting additional information regarding the Appellant's medical condition. (Exhibit 8: Medical documentation request and Hearing summary)
14. On [REDACTED], 2017, CHNCT sent a medical record request to [REDACTED] requesting additional information regarding the Appellant's medical condition. (Exhibit 9: Medical documentation request and Hearing summary)
15. On [REDACTED], 2017, CHNCT received more clinical information for the Appellant from his orthodontist and the treating physician. (Hearing summary)
16. On [REDACTED] 2017, CHNCT sent a medical record request to [REDACTED], the Appellant's former orthodontist regarding the Appellant's medical condition. (Exhibit 10: Medical documentation request and Hearing summary)
17. On [REDACTED], 2017, CHNCT received clinical information from [REDACTED] recommending orthognathic surgery in conjunction with orthodontics for the Appellant. (Exhibit 11: Letter dated [REDACTED] 17 and Hearing summary)
18. On [REDACTED] 2017, CHNCT reviewed the Appellant's medical documents and determined that the request for complex jaw surgery was upheld because the Appellant needs to complete more than one month of orthodontia before being evaluated for complex orthognathic intervention. There was no mention of the need for speech therapy or of weight loss issues from an inability to chew or swallow. The medical reviewer stated that the Appellant can be re-evaluated after 1-2 years of orthodontic intervention, which may relieve the mild alignment issues without surgical intervention. (Exhibit 13: Medical review dated [REDACTED]/2017 and Hearing summary)

19. On [REDACTED] 2017, CHNCT sent the Appellant notification that CHNCT's denial of authorization for complex jaw surgery had been upheld after further review because medical information provided does not support the medical necessity for the requested complex jaw surgery. (Exhibit 15: Determination Letter and Hearing summary)

### **CONCLUSIONS OF LAW**

1. Section §17b-2(8) of the Connecticut General Statutes provides that the Department of Social Services is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section §17b-262 of the Connecticut General Statutes provides that the Department may make such regulations as are necessary to administer the medical assistance program.
3. 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.

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

Section §17b-259b(c) of the Connecticut General Statutes provides that 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.

Section §17b-259b(d) of the Connecticut General Statutes provides that the Department of Social Services shall amend or repeal any definitions in the regulations of Connecticut state agencies that are inconsistent with the definition of medical necessity provided in subsection (a) of this section, including the definitions of medical appropriateness and medically appropriate, that are used in administering the department's medical assistance program. The commissioner shall implement policies and procedures to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal not later than twenty days after implementation. Such policies and procedures shall be valid until the time the final regulations are adopted.

4. CHNCT was correct to find that complex jaw surgery is not medically necessary until the Appellant can be re-evaluated after completing orthodontia therapy for one to two years.
5. CHNCT was correct to deny prior authorization for complex jaw surgery because medical necessity cannot be determined until the Appellant has completed orthodontia therapy to address his mild alignment issues and, as such, would not be a covered service, in accordance with state statutes and regulations.

## **DISCUSSION**

State regulations provide that health services covered under the Medicaid program must be considered medically necessary or required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition in order to attain or maintain the individual's achievable health and independent functioning and are clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease. Two separate medical

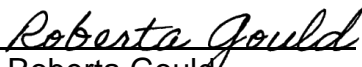
reviews found that the Appellant has just recently begun orthodontia therapy, and should be re-evaluated for medical necessity for jaw surgery after receiving one to two years of orthodontia. The reviewers noted that complex jaw surgery is not considered medically necessary at this time as he presents with no need for speech therapy or with weight loss issues.

The Appellant did not provide any other evidence of a substantial nature to indicate that the presence of dentofacial anomaly, maxillary hypoplasia and jaw asymmetry cannot be treated first with Phase I orthodontic treatment in order to treat the Appellant's alignment issues. It is reasonable to conclude that complex jaw surgery would not be medically necessary and that he can be re-evaluated after 1-2 years of orthodontic intervention, which may relieve the mild alignment issues without surgical intervention.

The undersigned hearing officer finds that the request for complex jaw surgery does not meet the requirement of being clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease.

#### **DECISION**

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

  
Roberta Gould  
Hearing Officer

Pc: Fatmata Williams, DSS Central Office  
CHNCT

### **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.