

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

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

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

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2017, Community Health Network of Connecticut (“CHNCT”) sent ██████████, (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for a Prism medical moveable patient lift system with two slings. CHNCT denied the prior authorization request stating that the overhead lift system was not medically necessary because it is more costly than an alternative service or sequence of services that may produce equal results as to the treatment of the Appellant’s illness, injury, or disease.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the CHNCT decision to deny the prior authorization request.

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 by telephone.

The hearing officer called the following individuals for the hearing:

██████████ Appellant
██████████, Patient Care Assistance, ██████████ Witness for the Appellant
Fabiola Goin, Appeals and Grievances Analyst, CHNCT
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's denial of prior authorization through the Medicaid program for a Prism medical moveable overhead patient lift system as not medically necessary, was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid program as administered by the Department of Social Services (the "Department"). (Hearing Record)
2. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of durable medical equipment ("DME"). (Hearing Record)
3. The Appellant is ██████████ born on ██████████. (Exhibit 1: Prior Authorization Request)
4. ██████████, a physiatrist (the "physiatrist") is the Appellant's pain management physician. A physiatrist is a specialist trained in treating disorders in patients with functional impairments. The physiatrist helps the Appellant with pain management, movement, and wound care. (Exhibit 1: Prior Authorization Request, Appellant's Testimony and CHNCT Representative's Testimony)
5. The Appellant has a diagnosis of quadriplegia, paralysis of both arms and legs and abnormal involuntary movements. (Hearing Record)
6. The Appellant receives patient care assistance ("PCA") services for up to twelve (12) hours per day, seven days per week. (Appellant's Testimony)
7. The Appellant is completely dependent for all transfers and requires a patient lift system to complete all transfers to and from her hospital bed, wheelchair and shower chair. (Exhibit 1: Prior Authorization Request and Appellant's Testimony)

8. A working patient lift system is medically necessary to complete all transfers. (Stipulated)
9. In [REDACTED] 2006, National Seating & Mobility (“NSM”) installed a Voyager fixed patient lift system (“Voyager”) with tracks in both the bedroom and bathroom of the Appellant’s home allowing the Appellant transfer ability in both rooms. (Appellant’s Testimony and Exhibit 1: Prior Authorization Request)
10. The Appellant spends up to fourteen (14) hours per day using the Voyager because the slings hold her up while in bed which is necessary for the Appellant to eat or drink. Without the support of the slings, the Appellant could not sit up while in bed because she would slide back down. (Appellant’s Testimony)
11. On [REDACTED], 2017, the physiatrist and a representative from Lifeway Ease, LLC. (“Lifeway”) met with the Appellant in her home to evaluate the Voyager and complete a request for a new patient lift system. (Appellant’s Testimony and Exhibit 1: Prior Authorization Request)
12. On [REDACTED] 2017, CHNCT received a prior authorization request from Lifeway for a Prism free standing track system with P300 lift (“Prism”) with high back universal sling size medium. Lifeway submitted the Patient Lift System Medical Documentation form signed by the physiatrist on [REDACTED], 2017 with the prior authorization request. The physiatrist lists the status of the Voyager as “inoperable beyond repair.” The physiatrist recommends the Prism to safely transfer the Appellant with one caregiver present. (Exhibit 1: Prior Authorization Request)
13. On [REDACTED] [REDACTED] 2017, CHNCT received progress notes from the physiatrist dated [REDACTED] 2017 and two addendums dated [REDACTED], 2017 and [REDACTED] 2017, along with photographs of the Appellant’s bedroom that include her wheelchair, hospital bed, and commode. The physiatrist comments, “Patient is here for a follow up. She is here in a stretcher today. She says her old aide quit and is the only one trained in putting patient in her wheelchair. She is able to operate wheelchair with chin control and sip and puff. She is unable to adjust position from the cervical spine distally. Difficulty moving the extremities due to spasticity and increased tone. She is obese with quadriplegia and significant tone affecting the neck, back and all 4 extremities.” Addendum to progress notes dated [REDACTED] 2017 and [REDACTED] 2017 reference the need for the hospital bed due to problems with aspiration and chronic and severe pain due to the inability to self-correct and reposition and necessary to support her functions for activities of daily living. (Exhibit 1: Prior Authorization Request)

14. On [REDACTED], 2017, CHNCT requested additional clinical information supporting the Appellant's medical need for the Prism from Lifeway, specifically the need for a new lift system compared to the replacement of the motor to the Voyager and the integrity of the current track system. (Exhibit 2: Additional PA Information)
15. On [REDACTED], 2017, CHNCT received a notice from Lifeway. The notice stated Lifeway does not have access or an account with the existing Voyager and indicated the current track system will not match the Prism. Lifeway cites the life expectancy of the Voyager as five years. (Exhibit 2: Additional PA Information)
16. On [REDACTED] 2017, CHNCT denied the request for the Prism and notified the Appellant. The notice states that the Prism is not medically necessary, per Connecticut law because it is more costly than an alternative service or sequence of services that may produce equal results as to the treatment of the Appellant's illness, injury or disease. (Exhibit 3: Medical Review and Exhibit 4: Notice of Action [REDACTED] 17)
17. On [REDACTED], 2017, the Appellant requested an administrative hearing. (Exhibit 5: Administrative Hearing Request)
18. On [REDACTED], 2017, CHNCT issued a notice of appeal to the Appellant. The notice confirmed receipt of the Appellant's appeal outlining the reason for the denial of the prior authorization as it is more costly than an alternative service or sequence of services that may produce equal results as to the treatment of the Appellant's illness, injury, or disease. CHNCT cannot determine if a new lift system is medically needed because there are less costly options available to take care of the Appellant's transfer needs that include replacement of the Voyager lift box. The notice requests any additional medical information to be sent directly to the CHNCT's representative. (Exhibit 6: Acknowledgement Letter)
19. On [REDACTED], 2017, CHNCT requested additional information from the physiatrist that included supporting documentation validating a complete new lift system is medically necessary rather than replacing the motor of the Voyager and documentation of the location and integrity of the track system. (Exhibit 7: Medical Record Request)
20. On [REDACTED], 2017, CHNCT requested additional information from Lifeway that included supporting documentation validating a complete new lift system is medically necessary rather than replacing the motor of the Voyager and documentation of the location and integrity of the track system. (Exhibit 8: Medical Record Request)

21. CHNCT did not receive any additional information from the physiatrist, Lifeway, or the Appellant. (Exhibit 9: Medical Review Request)
22. On [REDACTED], 2017, CHNCT reviewed the prior authorization request and medical records provided by the physiatrist and Lifeway. CHNCT determined the medical records provided did not support the medical necessity for the new Prism to replace the existing Voyager as compared to replacing the worn lift box. (Exhibit 9: Medical Review Request and Exhibit 10: Medical Review Results)
23. On [REDACTED] 2017, CHNCT denied the Appellant's appeal of the request for prior authorization for the Prism with two slings and notified the Appellant. The notice stated the appeal of your request for the Prism remains denied as set forth in the notice of action previously sent to the Appellant. The information submitted does not support the medical necessity for the Prism because it cannot be determined that a replacement moveable overhead patient lift system is medically necessary to meet the Appellant's needs as compared to replacing the worn lift box component in the Voyager. Because Lifeway does not supply parts or service for the Voyager, CHNCT has confirmed the availability of other providers/vendors that can replace the worn lift box. (Exhibit 11: NOA [REDACTED]/17)
24. In [REDACTED] 2017, the Appellant met with a case manager from CHNCT to assist the Appellant in obtaining service for the Voyager. (Appellant's Testimony)
25. On [REDACTED], 2017, NSM repaired the Appellant's Voyager lift system. NSM provided a replacement lift box. (Appellant's Testimony)
26. The slings have holes in them and need replacing due to safety concerns. (Appellant's Testimony)
27. The Voyager freezes up stranding the Appellant mid-transfer causing the PCA to climb onto the Appellant's bed to manually move the Appellant. (PCA Testimony)
28. On [REDACTED], 2017, after the repair by NSM, the Voyager lift system malfunctioned again. (PCA's Testimony)
29. The current track system is broken on the left side of the bed. The Appellant no longer uses the left side of the bed and completes all transfers from the right side of the bed because the track system remains damaged. (Appellant's Testimony)

30. The current track system in the bathroom is damaged. (Appellant's Testimony)
31. CHNCT did not offer the Appellant an alternative service or sequence of services to the Prism that could produce equal results for the treatment of the Appellant's illness, injury or disease, other than the replacement of the worn lift box component in the Voyager. (Hearing Record)
32. The repair of the over 10 year old Voyager Lift system did not work and did not meet the entire needs of the Appellant with regards to her transfers and her ability to eat and drink. The Appellant remains without a functioning and safe system for her illness, injury or disease. (Facts #25-30)

CONCLUSIONS OF LAW

1. Connecticut General Statute § 17b-2(6) provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. State statute 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. [Conn. Gen. Stats. § 17b-259b(a)]
3. State statute 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. [Conn. Gen. Stats. § 17b-269b(b)]

4. State statute 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. [Conn. Gen. Stats. § 17b-259b(c)]
5. State statute 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. [Conn. Gen. States. § 17b-259b(d)]
6. § 17b-262-672 of the Regulations of Connecticut State Agencies provides that sections 17b-262-672 through 17b-262-682 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 (CGS).
7. Regulation defines *durable medical equipment* or *DME* as 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 not disposable.[Conn. Agency Regs. § 17b-262-673(8)]
8. Regulation defines *equipment replacement* as any item that takes the place of original equipment lost, destroyed, or no longer medically useable or adequate. [Conn. Agency Regs. § 17b-262-673(9)]

9. Regulation defines *medical necessity* or *medically necessary* as health care provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist and individual in attaining or maintaining an optimal level of health; to diagnose a condition; or to prevent a medical condition from occurring. [Conn. Agency Regs. § 17b-262-673(17)]
10. Regulation defines *medical appropriateness* or *medically appropriate* as health care that is provided in a timely manner and meets professionally recognized standards of acceptable medical care; is delivered in the appropriate setting; and is the least costly of multiple, equally-effective, alternative treatments or diagnostic modalities. [Conn. Agency Regs. § 17b-262-673(15)]
11. Regulation defines *prior authorization* or *PA* as approval for the service or the delivery of goods from the department before the provider actually provides the service or delivers the goods. [Conn. Agency Regs. § 17b-262-673(20)]
12. Regulation 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. [Conn. Agency Regs. § 17b-262-676(a)(1)]
13. Regulation provides that 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. Agency Regs. § 17b-262-676(a)(4)]
14. Regulation provides that the 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. [Conn. Agency Regs. § 17b-262-676(b)(1)]

15. CHNCT incorrectly denied the Appellant's request for the purchase of the Prism to replace the Voyager because it determined replacing the entire patient lift system is not medically necessary compared to replacing the current worn lift box.
16. A working patient lift system is medically necessary for the Appellant. After replacing the worn lift box, the Voyager malfunctioned again. Replacing the worn lift box failed to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the Appellant's illness, injury or disease. The current slings have holes in them and require replacing due to safety concerns. The Appellant requires a safe, reliable, functional and adequate patient lift system to complete all transfers and for eating and drinking. After eleven years, the Voyager is no longer safe, reliable, functional or adequate to meet the Appellant's needs on a daily basis; therefore replacement of the Voyager is medically necessary.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. CHNCT must rescind the denial of the [REDACTED] 2017 prior authorization request for the Prism medical moveable patient lift system.
2. CHNT must approve the [REDACTED] 2017 prior authorization request for the Prism medical moveable patient lift system.
3. Compliance is due [REDACTED], 2018.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Fabiola Goin, RN, Appeals and Grievance Analyst, CHNCT
(appeals@chnct.org)
Fatmata Williams, Department of Social Services

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 Administrative Hearings and Appeals, 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 the Commissioner's 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.