

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

██████████, 2019  
Signature Confirmation

Client ID # ██████████  
Request # 147610

NOTICE OF DECISION  
PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, Community Health Network of Connecticut (“CHNCT”) sent ██████████ (the “Appellant”) a notice of action denying a request for prior authorization of cranial remolding orthosis for her child, ██████████ (“child”).

On ██████████ 2019, the Appellant requested an administrative hearing to contest the denial of cranial remolding orthosis.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████ 2019, 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 Counsel  
Heather Shea, RN, CHNCT’s Representative  
Maureen Foley-Roy, Hearing Officer

The hearing record remained open for the submission of additional evidence. The hearing record closed on ██████████ 2019.

## STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny cranial remolding orthosis for the Appellant's child is correct.

## FINDINGS OF FACT

1. The Appellant's child, date of birth, [REDACTED], is a recipient of the Husky Medicaid program. (Hearing record)
2. The child was noted to have an irregularly shaped head at the age of one month. His head shape was altered by repositioning and there has been some improvement. (Exhibit 1: Prior Authorization Request)
3. On [REDACTED] 2019, the child saw his pediatrician. The pediatrician noted that the child was a healthy [REDACTED] month old and that his mother was concerned by the shape of the child's head. The pediatrician referred the family to [REDACTED] team. (Exhibit 11: Pediatrician's notes)
4. On [REDACTED] 2019, Dr. [REDACTED], Assistant Professor of Plastic Surgery and Co-Director of Craniofacial Surgery at the [REDACTED] Department of Surgery saw the child for a diagnosis of left deformational plagiocephaly. (Exhibit 1: Prior Authorization Request)
5. The child's cranial measurement's note that his cephalic Index was 93.1 %. (Exhibit 1)
6. The future implications of having a deformed skull are unknown. (Appellant's testimony)
7. Deformational plagiocephaly places individuals at a higher risk of concussion as bicycle and sports helmets are manufactured to protect skulls with "normal" measurements. (Appellant's testimony and Appellant's Exhibit B: Contemporary Pediatrics article)
8. Dr. [REDACTED] indicated that the child had a flattening of his skull, most evident in the occiput on the left with a parallelogram reduction in the right frontal region. The child's ear position is not symmetric. The right facial structures are flattened. If the conditions are not corrected, the child's skull would likely remain permanently deformed. (Exhibit 16: Letter from Dr. [REDACTED] dated [REDACTED], 2019)
9. On [REDACTED] 2019, Dr. [REDACTED] prescribed a Cranial Remolding Helmet for the child. (Exhibit 1)

10. On [REDACTED] 2019, [REDACTED] requested prior authorization for a cranial remolding orthosis for the child due to his diagnosis of deformational plagiocephaly. (Exhibit 1 and Hearing summary)
11. On [REDACTED] 2019, CHNCT requested additional clinical information from Biometrics. (Exhibit 2: [REDACTED] 2019 letter to Biometrics)
12. On [REDACTED] 2019, Biometrics responded to CHNCT's request for additional information with a fax noting that there was no additional information. (Exhibit 3: Fax from Biometrics)
13. On [REDACTED] 2019, Dr. Richard Cowett from CHNCT reviewed the medical information submitted and determined that the request for cranial remolding orthosis was denied because the medical information submitted did not indicate that the child had a severe to moderate skull deformity which was likely to result in a significant permanent deformity if it was not corrected by a cranial orthotic. (Exhibit 4: Medical Review of [REDACTED] 2019)
14. On [REDACTED] 2019, CHNCT sent the Appellant a *Notice of Action for Denied Services or Goods* denying the request for cranial remolding orthosis because it was not medically necessary. The notice stated that the medical records submitted with the request did not show that the child would develop a significant permanent disability without the use of the cranial helmet. (Exhibit 5: Notice of Action dated [REDACTED], 2019)
15. On [REDACTED] [REDACTED] 2019, the Appellant requested an administrative hearing regarding the denial of the cranial remolding orthosis. (Exhibit 6: Hearing Request)
16. On [REDACTED] 2019 and [REDACTED] 2019, CHNCT sent a medical record request to the child's pediatricians requesting additional information regarding his medical condition. (Exhibits 8 and 10: Medical documentation request sent to Dr. [REDACTED])
17. On [REDACTED] 2019, CHNCT sent a medical record request to Dr. [REDACTED] at the [REDACTED] requesting additional information regarding the child's medical condition. (Exhibits 9: Medical documentation request sent to Dr. [REDACTED])
18. On [REDACTED], 2019, CHNCT received notes from the child's pediatrician, which were mostly illegible. (Exhibit 23: Fax from [REDACTED])
19. On [REDACTED] 2019, the Appellant advised CHNCT that there was no further information to be submitted and confirmed that CHNCT could send the request for review. (Hearing Summary)

20. On [REDACTED] 2019, Dr. Sandra Carbonari from CHNCT reviewed the Appellant's medical documents and determined that the denial for cranial remolding orthosis was upheld because there was no evidence that the child's plagiocephaly would result in significant, permanent deformity, if the deformity was cosmetic in nature or the functional implications of the deformity. (Exhibit 13: Medical review dated [REDACTED] 2019)
21. CHNCT sent the Appellant notification the denial of authorization for cranial remolding orthosis for the child had been upheld after further review because medical information provided does not support the medical necessity for the cranial remolding orthosis. The notice stated that the medical information submitted did not indicate that the child may develop a significant, permanent deformity without the use of a cranial orthosis and that the child would have a functional impairment if the orthosis were not used (Exhibit 14: Second determination letter from CHNCT)
22. On [REDACTED], 2019, (the date of the hearing), CHNCT received a letter from Dr. [REDACTED] from the [REDACTED] restating the details of the shape of the child's skull. The letter indicated that if the skull shape was not corrected, the child's skull would remain permanently deformed. (Exhibit 16)
23. On [REDACTED] 2019, the hearing officer directed CHNCT to review the medical information with Dr. [REDACTED] letter and make a determination by [REDACTED], 2019.
24. On [REDACTED], 2019, CHNCT reconsidered their denial. The denial was upheld. The reviewer stated that the documentation submitted described cosmetic issues that do not impact the function of the child. The reviewer also stated that as there was no indication that it was a significant deformity as required in the DSS Policy for Cranial Remolding Devices, the request could not be approved. (Exhibit 17: Email from CHNCT of [REDACTED], 2019)
25. Cranial remodeling devices (remodeling bands or helmets) may be considered medically necessary for the treatment of nonsynostotic positional cranial deformity in infants between the ages of 4 to 12 months of age when a pediatric neurosurgeon, craniofacial surgeon or other board-certified physician with specific expertise in the treatment of craniosynostosis or nonsynostotic cranial deformity (who is not employed or contracted with a commercial orthotic company or supplier/distributor) has determined that the infant has a moderate to severe skull deformity (cephalic index greater than 93% or transdiagonal difference of greater than 10 mm) that unless corrected by a cranial orthotic, is likely to result in significant, permanent deformity. (Exhibit 12: HUSKY Health Provider Policies & Procedures guidelines)
26. The guidelines do not contain a definition of "significant". (Exhibit 12: Hearing Record)

27. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. The hearing officer held the hearing record open for the submission of evidence received on the eve of the hearing and to allow CHNCT to conduct another review with the inclusion of the evidence. This decision is due not later than [REDACTED] 2020 and therefore is timely.

### **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.
4. 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.
5. 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.
6. CHNCT was incorrect to deny prior authorization for cranial remolding orthosis to address the child's moderate to severe plagiocephaly, which if left uncorrected would likely result in permanent deformity.
7. The request for the cranial remolding orthosis is medically necessary to ameliorate the child's medical condition pursuant to Section 17b-259b(a) of the Connecticut General Statutes.

### **DISCUSSION**

The Statutes provide that medical coverage be governed by the definition of medical necessity based on an assessment of an individual and his or her needs. There are guidelines to assist in making such determinations by providing specific medical benchmarks but the regulations are clear that such decisions are made strictly by the medical necessity criteria. In this case, the child does meet the benchmarks set in the criteria. The criteria and the initial letter denying the orthosis state that the child's medical providers did not indicate that the child was likely to develop a significant, permanent deformity without the use of the orthosis. However, Dr. [REDACTED] letter (albeit not submitted until the day of the hearing) did state that the deformity was likely to be permanent. It was established in testimony at the hearing that no definition of "significant" could be found in the regulations or in the criteria. The criteria does indicate that a "moderate to severe skull deformity" is one in which the cephalic index is greater than 93%. [REDACTED] cephalic index at 93.1% slightly exceeds that. So while there is no definition of "significant", [REDACTED] deformity can be determined as "moderate to severe". Dr. [REDACTED]'s letter indicates that this "moderate to severe" skull deformity is likely to be permanent. Coupled with the federal Medicaid law that defects are to be

corrected, there is enough evidence to establish that the cranial orthosis is medically necessary.

**DECISION**

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

**ORDER**

1. CHNCT will approve the Appellant's medical provider's prior authorization request for the cranial remolding orthosis.
2. Compliance with this order is due by [REDACTED] 2019 to the undersigned and shall consist of documentation that the cranial orthosis has been approved.



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Maureen Foley Roy  
Hearing Officer

Pc: Fatmata Williams, DSS Central Office  
Heather Shea, 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.