

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

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

Case ID # ██████████
Client ID # ██████████
Hearing # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, Community Health Network of CT (“CHNCT”), sent ██████████ (the “Appellant”), a Notice of Action (“NOA”) denying a request for prior authorization for 12 chiropractic visits for ██████████ (“the child”), indicating it was not medically necessary.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the Department’s decision.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled an administrative hearing for ██████████ 2018.

On ██████████ 2018, 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 participated in the hearing:

██████████, Appellant
Heather Shea, Registered Nurse, CHNCT
Sandra Scharkiewicz, Interpreter, ITI, Inc.
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny prior authorization for twelve chiropractic visits because it is not medically necessary is correct.

FINDINGS OF FACT

1. The Appellant is the child's mother. (Hearing Record)
2. The child is [REDACTED] years old (DOB [REDACTED]). (Exhibit 1: Prior Authorization Claim Form, [REDACTED]/18)
3. The child is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
4. CHNCT is the Department's administrator for administering medical services. (Hearing Record)
5. [REDACTED] ("the Chiropractor") is the child's chiropractor. (Exhibit 1)
6. On [REDACTED] 2018, the Chiropractor submitted a request for prior authorization for 12 chiropractic visits for a diagnosis of Cerebral Palsy. (Exhibit 1; Hearing Summary)
7. Cerebral Palsy is a chronic neuromuscular condition whose primary manifestations include hypertonicity and spasticity. (Hearing Summary)
8. Hypertonicity and spasticity is a description of the child's muscles which are rigid and tense. (CHNCT's Testimony)
9. On [REDACTED] 2018, the Medical Reviewer ("MR") reviewed the Appellant's medical information and denied the request for chiropractic services. The MR was unable to confirm medical necessity for the treatment of Cerebral Palsy and commented, "Unable to approve chiropractic services due to services requested for the diagnosis of Cerebral Palsy. Chiropractic services may be considered medically necessary when the referring practitioner has diagnosed the member with a disorder of the spine. Based on the documentation submitted for review, this member was referred to chiropractic services due to a diagnosis of cerebral palsy". (Exhibit 2: Medical Review, [REDACTED]/18)
10. The child does not have a spinal injury or disorder. She is quadriplegic, meaning having no movement. She is confined to her bed or wheelchair. (Appellant's Testimony)

11. On [REDACTED] 2018, CHNCT denied the prior authorization request for 12 chiropractic visits because it is not the right type of service for the child's injury, illness or disease. Chiropractic services may be considered medically needed if the child's provider determined the child has a problem with her neck or back. The provider requested chiropractic services to treat the child's Cerebral Palsy. Chiropractic services cannot be determined to be medically needed because there was no evidence provided that the doctor identified or diagnosed the child with a neck or back problem. (Exhibit 3: NOA, [REDACTED]/18)
12. On [REDACTED] 2018, the Department received the Appellant's request for an appeal/hearing. (Exhibit 4: Request for an Appeal and Administrative Hearing, [REDACTED]/18)
13. On [REDACTED] 2018, CHNCT informed the Appellant that they received her request for an appeal/administrative hearing. They confirmed which providers were to be contacted for the appeal. (Exhibit 5: Acknowledgement Letter, [REDACTED]/18; Hearing Summary)
14. On [REDACTED] [REDACTED] 2018, the Chiropractor submitted medical documentation to CHNCT for re-evaluation. (Exhibit 12: Medical Record from the Chiropractor)
15. The Chiropractor's documentation included a letter of medical necessity from Dr. [REDACTED] on behalf of the child, [REDACTED]. Dr. [REDACTED] commented, "In the context of [REDACTED] cerebral palsy—spastic quadriplegic type and associated ongoing challenges with neck, shoulder and back pain, I am offering support for [REDACTED] to be referred to a chiropractor. It is my sincere hope that this therapeutic perspective will provide the relief to [REDACTED] chronic pain. I am most grateful to you for your favorable consideration". (Exhibit 12)
16. On [REDACTED] 2018, CHNCT notified Dr. [REDACTED] and the child's Chiropractor of the Appellant's appeal and requested additional information from them. (Exhibit 6: Medical Record Request for Dr. [REDACTED]; Exhibit 7: Medical Record Request for the Chiropractor)
17. [REDACTED], MD is a medical provider with [REDACTED]. (Exhibit 11: [REDACTED] Medical Record)
18. On [REDACTED] 2018, CHNCT contacted Dr. [REDACTED] of [REDACTED] and the Chiropractor to confirm receipt of the requests for additional information but were unable to confirm receipt from either provider. CHNCT re-sent the requests for additional information to both providers. (Exhibit 9: Medical Record Request for the Chiropractor,

- ██████████/19; Exhibit 10: Medical Record Request for ██████████, MD, ██████████ 19; Hearing Summary)
19. On ██████████ 2018, CHNCT contacted the Chiropractor and confirmed he received the Medical Record Request. (Hearing Summary)
 20. On ██████████ 2018, CHNCT contacted ██████████ and confirmed they received the Medical Record Request. ██████████ forwarded medical records to CHNCT. (Exhibit 11; Medical Record; Hearing Summary)
 21. On ██████████, 2018, CHNCT confirmed that the Chiropractor would not be submitting any additional medical records. The Chiropractor referred CHNCT to the documents that he submitted with the provider re-evaluation request on ██████████ 2018. (Exhibit 12; Hearing Summary)
 22. The Chiropractor is requesting to treat the child to provide relief to her restricted spine due to being in a wheelchair most of the day and to release some of the pressure and restriction on her spine. (Exhibit 12)
 23. On ██████████ 2018, CHNCT sent the Appellant's appeal for a Medical Review. (Exhibit 13: Medical Review Request, Hearing Summary)
 24. On ██████████ 2018, the Medical Review was completed and the denial for Chiropractic services was upheld. CHNCT determined that based on the information submitted, the requested service was not medically necessary. It was not felt that a disorder of the spine would be ameliorated by spinal manipulation or the equivalent. The Chiropractor indicated that there are three stages in the general reparative process that occur: Symptomatic Relief, Repair and Regeneration, and Rehabilitation. He suggested that his therapeutic manipulations would be utilized on the child in the initial stage of Symptomatic Relief. The child previously received chiropractic care from a provider who no longer participates in the HUSKY Health Medicaid Program. There was no documentation provided to indicate that the therapeutic maneuvers that the previous practitioner utilized or how efficacious they were from a professional standpoint. The fact that the current provider wishes to begin at the beginning stage reinforces the concept that the child carries a disease process which is "static" in nature and probably not amenable to chiropractic manipulation. Because the proposed series of chiropractic care is unlikely to have a significant beneficial effect, the request is denied. (Exhibit 14: Medical Review, ██████████/18; Hearing Summary)
 25. The child received three months of chiropractic services last year from a provider who no longer participates in the HUSKY Health program. (Appellant's Testimony; Hearing Summary)

26. The child has difficulty looking upward and has received relief from her asthma after receiving the previous chiropractic care. She also slept, felt better and was more relaxed. (Appellant's Testimony)
27. The child has been receiving physical therapy since birth. The Appellant hasn't noticed any improvement. The child's muscles are still stiff and tense. (Appellant's Testimony)
28. On [REDACTED] 2018, CHNCT sent a letter to the Appellant denying the requested prior authorization for Chiropractic visits. Based on the notes submitted by the provider, the child's doctor asked for chiropractic visits to treat her Cerebral Palsy. The chiropractic services cannot be determined to be medically needed because the notes do not show that the doctor identified or diagnosed the child with a neck or back problem or injury. (Exhibit 15: Determination Letter, [REDACTED]/18)
29. 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] 2018. Therefore, this decision is due not later than [REDACTED] 2019.

CONCLUSIONS OF LAW

1. The Department is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-2(8); Conn. Gen. Stat. §17b-262]
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)]

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)]

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)]

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. Stat. 17b-259b(d)]

3. CHNCT correctly determined that the Appellant did not provide medical documentation establishing the medical necessity of chiropractic services.
4. CHNCT was correct to deny the request for chiropractic services as it is not medically necessary.
5. CHNCT correctly determined that it is not medically necessary for the Appellant to receive chiropractic services and on [REDACTED] 2018, correctly denied the prior authorization request.

DISCUSSION

The information provided does not support the medical necessity of the chiropractic services. It was recommended by CHNCT that the Appellant consider other medical treatments such as medication, modalities and physical therapy.

DECISION

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


Carla Hardy
Hearing Officer

Pc: appeals@chnct.org
Fatmata Williams, DSS

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.