

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

████████████████████  
Hearing ID # 132156

**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 inpatient surgery for a vaginoplasty and breast augmentation with Dr. ██████████

On ██████████, 2018, the Appellant requested an administrative hearing to contest the Department’s denial of the medical service.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled an 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 participated in the hearing:

████████████████████, Appellant  
████████████████████, Appellant’s mother and witness  
Heather Shea, Registered Nurse, CHNCT  
Carla Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether it was correct for CHNCT decision to deny prior authorization for a vaginoplasty and breast augmentation to be performed by an out-of-state provider who refused to enroll in the Connecticut Medical Assistance Program (“CMAP”)?

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] years old (DOB [REDACTED]/87). (Exhibit 1: Prior Authorization Request, [REDACTED]/18)
2. The Appellant is a participant in the Medicaid program, which is one of the medical assistance programs that is part of CMAP and administered by the Department of Social Services (the “Department”). (Hearing Record)
3. CHNCT is the Department’s contractor for administering the Medicaid program. (Hearing Record)
4. Dr. [REDACTED] is a Plastic and Reconstructive Surgeon. (Exhibit 1)
5. Dr. [REDACTED] practices at [REDACTED] in [REDACTED], [REDACTED].
6. On [REDACTED], 2018, a representative of CHNCT reached out to Dr. [REDACTED] and asked her to enroll in CMAP. (Exhibit 3: NOA, [REDACTED]/18; Hearing Summary; CHNCT’s Testimony)
7. Dr. [REDACTED] responded to the CHNCT representative that she chose not to enroll in CMAP. (Exhibit 3: MOA, [REDACTED]/2018).
8. Neither Dr. [REDACTED] nor [REDACTED] is enrolled in CMAP. (Exhibit 1)
9. Neither Dr. [REDACTED] nor [REDACTED] accepts Medicaid. (Exhibit 1)
10. On [REDACTED], 2018, Dr. [REDACTED] submitted a request for prior authorization for a vaginoplasty and breast augmentation for a diagnosis of gender dysphoria. (Exhibit 1)
11. On [REDACTED], 2018, the CHNCT’s Medical Reviewer (“MR”) denied the request for prior authorization. The MR determined that, while the medical information submitted by Dr. [REDACTED] substantiated the medical necessity of the vaginoplasty and the breast augmentation, the request

was denied because the provider was not enrolled in CMAP. (Exhibit 2: Medical Review, [REDACTED]/18; Hearing Summary)

12. On [REDACTED], 2018, CHNCT denied the prior authorization request for a vaginoplasty and breast augmentation because the Appellant's provider had chosen not to enroll in the CMAP and informed the Appellant that there were other providers currently enrolled in CMAP who could perform the services requested. (Exhibit 3: NOA, [REDACTED] 18)
13. The Appellant had misgivings about having her surgery performed by the provider who was enrolled in CMAP at that time and did not want to have the surgery performed by that CMAP-enrolled provider. (Appellant's Testimony)
14. A few days before the Appellant's surgery, a representative from CHNCT informed the Appellant that there was a different CMAP-enrolled provider who could perform her surgery. (Appellant's Testimony)
15. The Appellant acknowledged that this provider had a good reputation and was competent, but she wanted Dr. [REDACTED] to perform the surgery. (Appellant's Testimony)
16. On [REDACTED] 2018, Dr. [REDACTED] performed the vaginoplasty and the breast augmentation surgery. (Appellant's Testimony)
17. On [REDACTED], 2018, the Department received the Appellant's request for an administrative hearing. (Exhibit 4: Request for an Appeal and Administrative Hearing, [REDACTED]/18)
18. On [REDACTED], 2018, CHNCT notified the Appellant that it received her request for an appeal/administrative hearing. (Exhibit 5: Acknowledgement Letter, [REDACTED]/18; Hearing Summary)
19. On [REDACTED] 2018, CHNCT notified Dr. [REDACTED] of the Appellant's appeal and requested additional information "supporting the need for treatment with a provider, specifically Dr. [REDACTED] at [REDACTED] [REDACTED], who does not participate in the CMAP network as there are providers enrolled in CMAP who can perform the services requested." (Exhibit 7: Request for additional information from Dr. [REDACTED]; Hearing Summary)
20. On [REDACTED] 2018, Dr. [REDACTED]n responded to CHNCT, stressing her competence and experience, noting that the Appellant had confidence in her. (Exhibit 12).

21. [REDACTED], APRN, (the “nurse practitioner”) is a nurse practitioner at a facility where the Appellant receives care in Connecticut. (Appellant’s Testimony)
22. On [REDACTED] 2018, CHNCT notified the nurse practitioner of the Appellant’s appeal and requested additional information from the nurse practitioner supporting the need for treatment with a provider, specifically Dr. [REDACTED] at [REDACTED], who does not participate in the CMAP network as there are providers enrolled in CMAP who can perform the services requested.” (Exhibit 8: Request for additional information from [REDACTED], APRN)
23. On [REDACTED] 2018, the nurse practitioner responded to CHNCT that the Appellant chose Dr. [REDACTED] because of her extensive training and success with this type of surgery. (Exhibit 11)
24. On [REDACTED], 2018, CHNCT sent the Appellant’s appeal for another Medical Review. (Exhibit 13: Medical Review Request, Hearing Summary)
25. On [REDACTED], 2018, the Medical Review was completed and the denial for a vaginoplasty and breast augmentation was upheld because the requested service “could be provided by a CMAP provider.” (Exhibit 14: Medical Review, [REDACTED]/18)
26. On [REDACTED], 2018, CHNCT, following the additional Medical Review, sent a letter to the Appellant denying the requested prior authorization for vaginoplasty and breast augmentation with Dr. [REDACTED] because the services were provided out of network with a non-CMAP provider and could have been performed by a CMAP provider. (Exhibit 15: Determination Letter, [REDACTED]/18)
27. The issuance of this decision is timely under subsection (a) of section 17b-61 of the Connecticut General Statutes, 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. Section 17b-262-524(a) of the Regulations of Connecticut State Agencies provides that, to enroll in CMPA and receive payment from the Department, providers shall:
  - (1) Meet and maintain all applicable licensing, accreditation and certification requirements;
  - (2) meet and maintain all departmental enrollment requirements including the timely submission of a completed provider enrollment or reenrollment form and submission of all enrollment information and such affidavits as the department may require; and
  - (3) have a valid provider agreement on file which is signed by the provider and the department. This agreement, which shall be periodically updated, shall continue to be in effect for the duration specified in the agreement. The provider agreement specifies conditions and terms that govern the program and to which the provider is mandated to adhere in order to participate in the program.
3. Section 17b-262-531(e) of the Regulations of Connecticut State Agencies provides that the Department “shall make payment only to a duly enrolled provider.”
4. Section 17b-262-532(c) of the Regulations of Connecticut State Agencies provides that, “[i]n order to be paid for goods or services, out-of-state providers shall enroll in the Connecticut Medical Assistance Program.”
5. CHNCT correctly determined that Dr. [REDACTED] was not eligible to receive Medicaid reimbursement for the service she provided to the Appellant because she is not, and refused to become, enrolled as a CMAP provider.
6. CHNCT was correct to deny the request for prior authorization for vaginoplasty and breast augmentation from Dr. [REDACTED], a provider outside the CMAP network, because the requested services could have been performed by a provider who is enrolled in CMAP.

### **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.