

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

Client ID #00 ██████████  
Request #133634

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, 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 minor child, ██████████ (“the child”).

On ██████████, 2018, the Appellant requested an administrative hearing to contest the denial of cranial remolding orthosis for the child.

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 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant  
Barbara McCoid RN, CHNCT Representative, Appeals and Grievances Analyst  
Miklos Mencseli, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT’s decision to deny the Appellant’s prior authorization request for approval of cranial remolding orthosis (DOC Band/

adjustable helmet), as not medically necessary pursuant to Section 17b-259b of the Connecticut General Statutes, is correct.

### **FINDINGS OF FACT**

1. The child (DOB [REDACTED]) is a recipient of Husky A Medicaid. (Exhibit 1: Prior Authorization form dated [REDACTED]-18)
2. Dr. [REDACTED] is the child's primary medical provider. (Exhibit 1)
3. On [REDACTED], 2018, Dr. [REDACTED] diagnosed the child with a moderate – severe plagiocephaly, flatness of the head. (Exhibit 1)
4. Dr. [REDACTED] recommends DOC Band treatment and Physical Therapy (PT) to get the child on track with gross motor milestone achievement. (Exhibit 1)
5. On [REDACTED], 2018, Dr. [REDACTED] referred the Appellant's child to Cranial Technologies for an evaluation. (Exhibit 1)
6. On [REDACTED], 2018, CHNCT received from Cranial Technologies a request for prior authorization for a cranial remolding orthosis (adjustable helmet or band) for the child's diagnoses of plagiocephaly. (Summary, Exhibit 1)
7. On [REDACTED], 2018, the Medical Reviewer reviewed the information submitted and denied the request. The Medical Reviewer noted "unable to approve as the DSS Policy for Cranial Remolding Orthosis has not been met. According to the policy, the member must have a diagnosis of plagiocephaly with a moderate to severe deformity [CI 90% or greater and TDD 10mm or greater], along with a developmental delay related to the diagnosis of plagiocephaly and a failed 2 month trial of conservative treatment. According to the physician note on [REDACTED]/18, the child's development appears normal; however, the provider notes indicate that member is not rolling or crawling. Medically necessity cannot be determined for this member as the member does not present with developmental milestone delay as a result of plagiocephaly." (Exhibit 2: Medical Review dated [REDACTED]-18)
8. On [REDACTED], 2018, CHNCT sent a denial notice of action (NOA) to the head of household, [REDACTED]. (Summary, Exhibit 3: NOA dated [REDACTED]-18)
9. On [REDACTED], 2018, CHNCT received a verbal appeal request. (Summary, Exhibit 4: appeal request)
10. On [REDACTED] 2018, CHNCT sent a request to Access Rehab Centers for the child's Medical Records. (Summary, Exhibit 6: request form dated [REDACTED]-18)

11. On [REDACTED], 2018, CHNCT received the requested records from Access Rehab Centers. (Summary, Exhibit 7: Medical Records from Access Rehab Centers)
12. On [REDACTED], 2018, CHNCT conducted a medical review request. The review noted medically necessity cannot be determined for the child as he does not present with developmental milestone delay as a result of plagiochaley. (Exhibit 8: Medical Review Request)
13. On [REDACTED], 2018, CHNCT reviewed the records. The Medical Reviewer noted that this is a now a 9 month old boy with diagnosis of plagiocephaly with an appeal of the denial of request for cranial orthosis. "Further documentation submitted from his PT evaluation at 8 months of age, found a mild delay in gross motor development, specifically: unable to maintain quadruped position, does not move from sitting to prone or floor to sitting. These delays are most likely associated with truncal weakness/hypotonia and would be best treated with PT and /or Birth to Three evaluation and services. According to the DSS Policy for Cranial Remolding Orthosis, the infant must have a diagnosis of plagiocephaly with a moderate to severe deformity [CI 90% or greater or TDD 10mm or greater], along with a developmental delay related to the diagnosis of plagiocephaly and a failed 2 month trial of conservative treatment. There is no evidence that the plagiocephaly is the cause of his delays. The denial is upheld." (Exhibit 9: Medical Review)
14. On [REDACTED] 2018, CHNCT sent the Appellant a determination letter upholding the denial of the cranial remolding orthosis for her child. (Exhibit 10: letter dated [REDACTED]-18)
15. On [REDACTED], 2018, CHNCT received the Appellant's request for an administrative hearing. (Exhibit 11: hearing request)
16. The child has a score of CI 90% or greater as Cranial Technologies scored the child with a CI of 91.9. (Exhibit 1, Appellant's Testimony)
17. The child completed 8 months of PT at Access Rehab Centers to improve his motor skills. (Exhibit 7: Access Rehab Centers Medical Records, Appellant's Testimony)
18. The PT ended on [REDACTED], 2018. (Appellant's Testimony)
19. If the child is not walking by [REDACTED] 2019 he will be referred back for PT. (Appellant's Testimony)
20. The child is progressing in his development. (Appellant's Testimony)

21. The Appellant's concern is that the progress began in [REDACTED] 2018 at 8 months and took too long and that the Doctor's notes are given priority over the PT's evaluation of her child. (Appellant's Testimony)
22. 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. Connecticut General Statutes § 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. Section (§) 17b-262-672 to 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.

Regulations of Connecticut State Agencies § 17b-262-673(8) provides "Durable medical equipment" or "DME" means 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.

Regulations of Connecticut State Agencies § 17b-262-675 provides payment for DME and related equipment is available for Medicaid clients who have a medical need for equipment which meets the department's definition of DME when the item is prescribed by a licensed practitioner, subject to the conditions and limitations set forth in sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies.

Regulations of Connecticut State Agencies § 17b-262-676(a)(1) provides that the Department shall pay for the purchase or rental and 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.

**A cranial remolding orthosis meets the definition of durable medical equipment per regulation.**

3. Connecticut General Statutes § 17b-259b (a) provides 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. The Appellant's request for cranial remolding orthosis does not meet the requirement of being clinically appropriate in terms of type, frequency, timing, site, extent and duration or considered effective for the individual's illness, injury or disease.
5. Connecticut General Statutes § 17b-259b (b) provides 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.
6. Regulations of Connecticut State Agencies § 17b-262-342 (12) provides Any procedures or services of an unproven, educational, social, research, experimental or cosmetic nature; any diagnostic, therapeutic or treatment services in excess of those deemed medically necessary by the department to treat the client's condition or services not directly related to the client's diagnosis, symptoms or medical history.

**CHNCT was correct to deny prior authorization for cranial remolding orthosis for the child because it is not medically necessary to address the child's moderate plagiocephaly and would not be a covered service in accordance with state statutes and regulations.**

**DISCUSSION**

The child has a CI of 90% or more, but he does not present with developmental delay because of plagiocephaly and as such, it is reasonable to conclude that cranial remolding orthosis would not be medically necessary.

**DECISION**

The Appellant's appeal is Denied.

A handwritten signature in black ink, appearing to read "Miklos Mencseli". The signature is written in a cursive style with some loops and flourishes.

Miklos Mencseli  
Hearing Officer

C: Community Health Network of CT (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 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.