

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

[REDACTED], 2019
SIGNATURE CONFIRMATION

Client # [REDACTED]
[REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2018, the Department of Social Services (the "Department"), through its medical Administrative Services Organization, Community Health Network of Connecticut Inc. ("CHNCT"), sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization of Husky Medicaid payment for custom foot orthotics.

On [REDACTED] 2018, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization for payment of custom foot orthotics.

On [REDACTED], 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled an administrative hearing for [REDACTED] 2019.

On [REDACTED], 2019, the Appellant requested a continuance which OLCRAH granted.

On [REDACTED] 2019, the OLCRAH scheduled an administrative hearing for [REDACTED] 2019.

On [REDACTED] 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:

[REDACTED], Appellant
Barbara McCoid, CHNCT Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether CHNCT's decision to deny authorization of Husky Medicaid payment for custom foot orthotics because it is not medically necessary is correct.

FINDINGS OF FACT

1. The Appellant is 55 years old ([REDACTED]). (Exhibit 1: Prior Authorization request)
2. The Appellant is a participant in the Husky C Medicaid program, as administered by the Department. (Hearing Record)
3. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of medical services. (Hearing Record)
4. The Appellant has a history of foot pain. (Appellant's Testimony)
5. On [REDACTED], the Appellant attended an office visit at the [REDACTED] Podiatry with Dr. [REDACTED]. He was diagnosed with foot pain, bursitis of the left ankle and foot, Arthritis of the midfoot, Pes planus of both feet, and a heel spur on the left foot. (Exhibit 1: Prior Authorization request)
6. Dr. [REDACTED] recommended physical therapy and custom foot orthotics. (Exhibit 1: Prior Authorization request)
7. The Appellant currently receives a foot injection every six months. (Appellant's testimony)
8. The Appellant received aqua therapy prior to treatment from his current podiatrist. (Appellant's testimony)

9. On [REDACTED] 2018, CHNCT received a Prior Authorization request from the Appellant's podiatrist requesting custom foot orthotics. (Exhibit 1: Prior Authorization request)
10. On [REDACTED], 2018, CHNCT received additional information from the Appellant's podiatrist. CHNCT received documentation that listed the following treatments that were tried and failed to treat the Appellant's foot pain: exercises, shoe gear changes, over the counter medications, heat and stretching. (Exhibit 2: Doctors treatment list)
11. On [REDACTED], 2018, CHNCT's medical reviewer denied the prior authorization request for custom foot orthotics for the Appellant. The medical reviewer noted that there was "no documentation of a trial and failure of pre-fabricated inserts or a contraindication to the use of pre-fabricated inserts". (Exhibit 3: Medical Review)
12. Clinical guidelines stat that custom foot orthotics may be considered medically necessary when there is a failure, contraindication or intolerance to prefabricated foot orthosis for congenital or acquired conditions that impair circulation, functioning, or cause pain to the lower extremities. (Exhibit 12: Husky policies and procedures)
13. On [REDACTED] 2018, CHNCT sent a notice to the Appellant denying his request for custom foot orthotics. (Exhibit 4: Notice of Action)
14. On [REDACTED] 2018, the Appellant requested a hearing on the denial of custom foot orthotics. (Exhibit 5: Hearing request)
15. On [REDACTED] 2019, CHNCT requested additional written information from the Appellant regarding his need for custom foot orthotics. (Exhibit 6: Additional documentation request)
16. On [REDACTED] 2019, CHNCT sent a request to the Appellant's podiatrist requesting additional information regarding the Appellant's request for custom foot orthotics. Specifically CHNCT requested information that includes: verification of a six week trial of over the counter foot orthotics with clinical documentation, and a letter of medical necessity as to why custom foot orthotics are needed for this member. (Exhibit 7: CHNCT letter to podiatrist)
17. On [REDACTED], 2019, CHNCT confirmed with the Appellant's podiatrist that no new information would be sent regarding the Appellant's appeal. (Hearing record)
18. On [REDACTED], 2019, a second review was completed by CHNCT and the denial of custom foot orthotics was upheld. The reviewer commented

that the requested foot orthotics are not considered medically necessary and that a trial of pre-fabricated foot orthotics is clinically appropriate for the Appellant. The rationale for the denial was that "the records are devoid of documentation of a trial and failure of pre-fabricated inserts or a contraindication to the use of per-fabricated inserts".

19. On [REDACTED], 2019, CHNCT sent the Appellant a notice denying the appeal for his request of custom foot orthotics. (Exhibit 11: Denial letter)
20. "The issuance of this decision is timely under Connecticut General Statute 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." "However, the hearing, which was originally scheduled for [REDACTED] 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 21-day delay. Because this 21-day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2019, and is therefore timely."

CONCLUSIONS OF LAW

1. Section 17b-2 (6) & § 17b-262 of the Connecticut General Statutes provides in part 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 and may make such regulations as are necessary to administer the medical assistance program.
2. Section 17b-239(d) of the Connecticut General Statutes addresses medical payments for outpatient hospital services.
3. 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)]

4. CHNCT correctly determined that the Appellant did not provide recent medical documentation to establish that a trial and failure of pre-fabricated inserts or a contraindication to the use of per-fabricated inserts.
5. CHNCT was correct to deny the request for custom foot orthotics as it is not medically necessary.

DECISION

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


Thomas Monahan
Hearing Officer

C: 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.