

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

REQUEST # [REDACTED]

[REDACTED] 2019
SIGNATURE CONFIRMATION

[REDACTED]
[REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2018, the Department of Social Services (the "Department") through its Administrative Service Organization ("ASO"), Community Health Network of Connecticut, Inc. ("CHNCT"), sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") stating that it had denied his provider's prior authorization request for approval of a cranial remolding orthosis for the Appellant as not medically necessary, pursuant to Section 17b-259b(a)(5) of the Connecticut General Statutes, as the request was not based upon the assessment of the Appellant's specific medical condition.

On [REDACTED] 2019, the Appellant's Representative [REDACTED] requested an administrative hearing on behalf of the Appellant to contest CHNCT's denial of his provider's prior authorization request for approval of a cranial remolding orthosis. Due to extenuating circumstances, the Appellant's Representative was granted good cause for submitting an untimely hearing request.

On [REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice of Administrative scheduling a hearing for [REDACTED] 2019 @ 11:00 AM. OLCRAH granted the Appellant's Representative a continuance.

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 to address CHNCT's denial of the Appellant's prior authorization request for approval of a cranial remolding orthosis.

The following individuals were present at the hearing:

██████████ Appellant's Representative/DCF Social Worker
Heather Shea, RN, Representative for CHNCT
Hernold C. Linton, Hearing Officer

The closing of the hearing record was initially extended to ██████████ 2019 for CHNCT to review the additional medical information provided at the hearing. On ██████████ 2018, CHNCT provided its findings on the appeal review reconsideration which were shared with the Appellant's representative for review and response by ██████████ 2019. No further response was received from the Appellant's Representative, and the hearing record was closed on ██████████ 2019.

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 a Cranial Remolding Orthosis, as not medically necessary pursuant to Section 17b-259b of the Connecticut General Statutes, is correct.

FINDINGS OF FACT

1. On ██████████ 2018, CHNCT, the Department's medical subcontractor, received a prior authorization request from ██████████, a vendor for durable medical equipment ("DME"), for approval of a Cranial Remolding Orthosis to treat the Appellant's diagnosis of Plagiocephaly. (Hearing Summary; Dept.'s Exhibit #1)
2. The prior authorization request includes a clinical evaluation report detailing the Appellant's medical history, developmental needs, and treatments received. (Hearing Summary; Dept.'s Exhibit #1)
3. CHNCT uses clinical guidelines to review medical necessity for cranial remodeling devices and the guidelines provide the following:

"Cranial remodeling devices (remodeling bands, or helmets) may be considered medically necessary for the treatment of either synostosis, plagiocephaly, or brachycephaly in children between 4 and 12 months of age when the device is custom made and fitted for the child and:

- A. The child has a surgery for craniosynostosis, and orthosis is needed for post-operative care **OR**
- B. The child has severe plagiocephaly or brachycephaly (cephalic index greater than or equal to 90% or a transdiagonal difference greater than 10mm); **AND**
- C. The child is not meeting developmental milestones secondary to plagiocephaly or brachycephaly (i.e. rolling, sitting, creeping); **AND**
- D. Marked asymmetry has not been substantially improved following a two

month trial of conservative treatment e.g. physical therapy, alternative positioning, “tummy time”.”

4. On ██████████ 2018, a care manager for CHNCT reviewed the prior authorization request and progress notes submitted, and determined that the Appellant’s recent office visit shows Hypotonia (“poor muscle tone”) of the lower extremities, that he is not walking independently, or walking while holding on. Consequently, CHNCT determined that this type of delay is not caused by or related to head deformity, and that given this information, the request for a Cranial Remolding Orthosis for the Appellant cannot be determined to be medically necessary. (Hearing Summary; Dept.’s Exhibit #2: ██████████/18 Medical Review)
5. CHNCT determined that a Cranial Remolding Orthosis is considered medically necessary when the notes show that a child’s head deformity has led to a delay in the child’s development. The child must show signs of a developmental milestone delay related to the diagnosis, and a failed two month trial of conservative treatments. (Hearing Summary; Dept.’s Exhibit #2)
6. On ██████████, 2018, CHNCT sent a NOA to the Appellant advising him that the prior authorization request received for approval of a Cranial Remolding Orthosis was denied, because the request was not based upon the Appellant’s specific medical condition. The medical information submitted does not substantiate the medical necessity for the use of a Cranial Remolding Orthosis. The NOA stated that the service requested was not medically necessary, per section 17b-259b(a)(5) of the Connecticut General Statutes. (Hearing Summary; Dept.’s Exhibit #3: ██████████/18 Notice of Action)
7. CHNCT contacted the Appellant’s providers and requested additional information to document his diagnosis and symptoms. (Hearing Summary; Dept.’s Exhibit #7: Medical Record Requests)
8. CHNCT did not receive the additional information requested from the Appellant’s providers regarding his diagnosis and symptoms. (Hearing Summary)
9. The Appellant’s providers informed CHNCT that no additional medical information would be provided regarding the Appellant’s diagnosis and symptoms. (Hearing Summary)
10. CHNCT conducted an appeal review of the Appellant’s medical records and determined that a Cranial Remolding Orthosis cannot be determined to be medically necessary for the Appellant as he is not determined to have a developmental delay caused by or related to Plagiocephaly. (Dept.’s Exhibit #12: ██████████/19 Request for Medical Review)
11. On ██████████ 2019, the Appellant’s Representative submitted additional information regarding his diagnosis for review. (Appellant’s Exhibit A: Developmental Summary)

12. CHNCT conducted an appeal review reconsideration of the information submitted at the hearing, and determined that there would be no change in the decision, and the original denial was upheld by CHNCT. (Dept.'s Exhibit #16: ██████ 19 Email from CHNCT)
13. The Appellant is a recipient of Medicaid benefits. (Hearing Summary)
14. The Appellant was diagnosed with moderate brachycephaly with asymmetries impacted by sleep position. (Dept.'s Exhibit 2, Clinical Evaluation Report, Garrett Pascavage CPO, ██████ 2018)
15. As of the date of the hearing, the Appellant was sixteen months of age (DOB ██████ 17). (Hearing Summary)
16. At the time of the request for prior authorization for approval of a Cranial Remolding Orthosis, the Appellant was ██████ months and ██████ days old. (Facts # 1 & 16)
17. At approximately 10 months of age, the Appellant had met age appropriate milestones of playing peekaboo, object permanence, looks at books, stranger anxiety, seeks parent for comfort, imitates sounds, and points at objects. (Hearing Summary; Dept.'s Exhibit #1)
18. At approximately 10 months of age, the Appellant was sitting independently but not crawling and not pulling to stand. (Dept.'s Exhibit 2)
19. The record is devoid of medical documentation to substantiate developmental milestone delays for the Appellant as a result of **severe** plagiocephaly or brachycephaly. (Hearing Record) [*emphasis added*]
20. The record is devoid of medical documentation that the Appellant had two months of failed trials of conservative treatments, such as physical therapy, alternative positioning, or "tummy time." (Hearing Record)

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; 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. Section 17b-262-998 of the Regulations of Connecticut State Agencies provides that the following services are not covered:
 - (1) Services that are not covered in the Medicaid state plan;

- (2) Services that are not medically necessary;
 - (3) Canceled services or appointments that are not kept;
 - (4) Inpatient services, except as provided in section 17b-262-999 (d) (1);
 - (5) Simple foot hygiene;
 - (6) Any service requiring authorization or registration for which the provider did not obtain such authorization or registration;
 - (7) Any procedures or services that are solely educational, social, research, recreational, experimental or generally not accepted by medical practice; or
 - (8) Visits for the sole purpose of obtaining or refilling a prescription, the need for which was previously determined. (Effective May 13, 2015)
4. Based on the child's diagnosis and the lack of medical evidence regarding the cause of his developmental delay, as well as use of the guidelines for determining coverage for cranial remodeling devices, CHNCT correctly determined that the requested cranial remodeling orthosis is not medically necessary pursuant to section § 17b-259b (a) of the Connecticut General Statutes.

DECISION

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



Hernold C. Linton
Hearing Officer

CC: **Appeals@chnct.org**
Heather Shea, RN, BSN, 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 06105-3725.

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.