

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

[REDACTED]

[REDACTED]

Signature Confirmation

NOTICE OF DECISION
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2019, Community Health Network of Connecticut (“CHNCT”) sent [REDACTED] [REDACTED] (the “Appellant”) a notice of action denying a request for prior authorization of cranial remodeling orthosis for [REDACTED] (“the child”), the Appellant’s [REDACTED].

On [REDACTED], 2019, the Appellant requested an administrative hearing to contest the denial of cranial remodeling orthosis for the child.

On [REDACTED], 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for [REDACTED] 2019.

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

On [REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for [REDACTED], 2019.

On [REDACTED] 2018, 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:

■
[REDACTED], Appellant, child's [REDACTED] parent
Barbara McCoid, RN, CHNCT's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny a cranial remolding orthosis for the child is correct.

FINDINGS OF FACT

1. The child is [REDACTED] old [REDACTED] and a recipient of Husky A Medicaid. (Exhibit 1: Prior Authorization request)
2. Dr. [REDACTED] MD is the child's pediatrician and referred the child to the Department of Neurosurgery at [REDACTED]. (Hearing record)
3. The child's diagnosis is plagiocephaly, [flatness of the head], and torticollis, [twisted neck], with no documentation of craniosynostosis, [unusually shaped head]. (Testimony, Exhibit 1; Prior Authorization request)
4. On [REDACTED] 2019, CHNCT received from [REDACTED] a Prior Authorization ("PA") request for a cranial remolding orthosis (DOC Band) for the child's diagnoses of plagiocephaly. (Exhibit 1: Authorization request; Hearing summary)
5. [REDACTED] Nurse Practitioner ("NP"), APRN in the neurosurgery department at [REDACTED] is the referring physician on the PA request. (Exhibit 1: PA request)
6. [REDACTED] is the provider for the cranial remolding orthosis. In addition to information from [REDACTED] and the referring physician; [REDACTED] submitted medical information for a review of eligibility for a cranial orthosis. (Exhibit 1: PA request)
7. The child's cranial measurements include the following: Cephalic Index ("C.I.") measured 90%; the Transcranial Diagonal Diameter ("TDD") measured 10 mm.

8. The child is unable to sit independently, roll over or crawl. A Birth to Three assessment on [REDACTED] 2018 documented developmental delays in the following areas: Personal/Social, Communication, Expressive, Motor skills and Cognitive skills. The child receives birth to three services and physical therapy services. (Exhibit 1: PA request)
9. On [REDACTED] 2018, the referring physician assessed that the child has moderate right positional plagiocephaly. She stated that despite the current malformation, the skull bones tend to improve over time with skull and brain growth. She advised the foster parents that there is no concern for delayed neurocognitive or developmental milestone due to the child's positional issue.

The referring physician recommended the following:

1. Continue to encourage conservative measures, including less dependent, supine positioning, parentally observed tummy time, and repositioning the child in his bassinet or crib at night to avoid tendencies to turn in the same direction.
2. Continue physical therapy for management of torticollis.
3. Return for follow-up in Six to eight weeks
4. A prescription for helmet orthosis was provided to the Appellant.

(Exhibit 1: PA request)

10. On [REDACTED] 2019, after a review by CHNCT's Richard M Cowett MD, FAAP, CHNCT denied the request for a cranial orthosis because it is not medically necessary. CHNCT denied the request for a cranial orthosis because the medical notes state that the child's developmental delays are not caused by his head deformity. (Exhibit 3: Medical Review, [REDACTED]/19, Exhibit 4: Denial notice)
11. On [REDACTED] 2019, Dr. Cowett upheld his denial of the cranial orthosis after a discussion with the provider. (Exhibit 5: Peer to Peer review)
12. On [REDACTED], 2019, the Appellant appealed the denial of the cranial orthosis. (Exhibit 6: Hearing request)
13. On [REDACTED], 2019, CHCNT notified the referring physician from [REDACTED] neurosurgery, the child's pediatrician, [REDACTED] at Birth to Three and [REDACTED] of the appeal and requested additional information on the medical necessity of the child's need for a cranial orthosis. CHNCT notifications stated that the request for the cranial orthosis was denied because, based on the documentation provided, CHNCT was unable to determine that the child's developmental delays were caused by his plagiocephaly. (Exhibits 8-11, 14-15: medical records requests)
14. [REDACTED] submitted additional notes covering the time period [REDACTED], 2018 to [REDACTED], 2019. The notes stated that the child

improved in turning his head to both sides and holding his head up while on his belly. The notes do not provide information indicating that the child's developmental delays are caused by plagiocephaly. (Exhibit 12: ██████████ physical therapy notes)

15. On ██████████ 2019, a physical therapist from ██████████ submitted additional information. The information states that the child is currently presenting with developmental delays with his motor milestones in regards to his skills of rolling, prone pivoting, and supported sitting. The notes do not provide information indicating that the child's developmental delays are caused by plagiocephaly. (Exhibit 13: Physical Therapist letter ██████████ 19)
16. CHNCT did not receive any additional information from any other of the child's medical providers. (Hearing summary)
17. On ██████████, 2019, after reviewing the additional medical information submitted, CHNCT denied the Appellant's appeal of the denial of the cranial orthosis. CHNCT denied the request for the cranial orthosis as not medically necessary because there is no documentation of a developmental delay caused by plagiocephaly. CHNCT cited the NP's assessment that states that any delay in neurocognitive development or acquisition of developmental milestones is not due to positional plagiocephaly. (Exhibit 17: Medical review, Exhibit 18: Denial notice, ██████████/19)
18. The Connecticut Husky Health guidelines for 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 had surgery for craniosynostosis, and the 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 trans diagonal difference greater than 10 mm); **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." The medical record should document the presence of A, B, C and D (above). A letter generated by the DME provider and signed by the treating physician or therapist does not meet this requirement. The use of a cranial remodeling for individuals not meeting the above criteria is considered cosmetic in nature, and is therefore not medically necessary and cannot be covered by Medicaid. (Exhibit 19: Husky Health provider policies and procedures for cranial remodeling devices)
19. The child's developmental delays are not caused by plagiocephaly. (Exhibit

1:PA request, Exhibit 3: Medical review,

19. Connecticut General Statutes § 17b-61(a) requires that a final decision be issued within 90 days of the request for an administrative hearing. On [REDACTED] 2019, the OLCRAH received the hearing request. postmarked [REDACTED], 2019 and scheduled the administrative hearing for [REDACTED] 2019. This decision, therefore was due by [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 17-day delay. Because this 17-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and is therefore timely."

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. 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.
5. 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 plagiocephaly and would not be a covered service in accordance with state statutes and regulations.

DISCUSSION

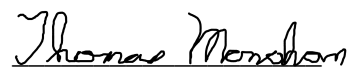
The request for a cranial remolding orthosis does not meet the Connecticut Husky Health guidelines for Cranial Remodeling Devices and does not meet the definition of medical necessity because the NP indicated any delay in the child's neurocognitive development or acquisition of developmental milestones is not due to positional plagiocephaly.

The child's representative expressed concern that the child's diagnosis of plagiocephaly may have long-term effects on his development and believes the approval of a cranial remolding orthosis is the child's proper course of treatment. The Appellant did not provide any new medical evidence to substantiate evidence that the child's developmental delays were related to his plagiocephaly.

The Appellant's request for cranial remolding orthosis for the child 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.

DECISION

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



Thomas Monahan
Hearing officer

C: Fatmata Williams, DSS Central Office
appeals@chnct.org

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, law, and 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, if 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 06105-3725. 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.

