

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

Case ID# ██████████
Client ID # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department"), through its Administrative Service Organization, Community Health Network of Connecticut ("CHNCT") sent ██████████ (the "Appellant"), a notice that her medical provider's request for prior authorization for a panniculectomy, a surgery to remove excess skin from the pannus ("lower abdomen"), was denied.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the CHNCT's decision to deny her provider's request for the surgery.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2019.

The administrative hearing was rescheduled at the Appellant's request and on ██████████ 2019, OLCRAH issued a notice scheduling 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 were present at the hearing:

[REDACTED], Appellant
 [REDACTED] Interpreter, [REDACTED]
 Barbara McCoid, RN, CHNCT's Representative
 Sybil Hardy, Hearing Officer

Por separado se enviará una copia de esta decisión de la audiencia en español.

STATEMENT OF THE ISSUE

The issue is whether CHNCT's denial of prior authorization for the Appellant's panniculectomy surgery because it is not medically necessary was correct.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old ([REDACTED]) individual and is a participant in the Medicaid program as administered by the Department. (Exhibit 1: Prior Authorization ["PA"] Request from [REDACTED], [REDACTED]/19)
2. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of medical services under the Medicaid program. (Hearing Record)
3. [REDACTED] M.D. (the "plastic surgeon") of [REDACTED] Connecticut is the Appellant's plastic and reconstructive surgeon. (Exhibit 1, Exhibit 8: Medical Record Request, [REDACTED] 19)
4. [REDACTED] M.D. of [REDACTED] Connecticut (the "medical provider1") is the Appellant's medical provider. (Exhibit 1, Exhibit 12: Medical Record Request, [REDACTED] 19)
5. [REDACTED] M.D. of [REDACTED], Connecticut (the "medical provider2") is the Appellant's medical provider. (Exhibit 1, Exhibit 15: Medical Records from [REDACTED]/19)
6. [REDACTED] LCSW, of [REDACTED] Connecticut (the "treating social worker") is the Appellant's treating social worker. (Exhibit 16: Medical Records from [REDACTED] 19.)
7. [REDACTED] 2016, the Appellant underwent a laparoscopic sleeve surgery. Her post-operative weight was 213 pounds and her current weight is 170 pounds. (Exhibit 1, Exhibit 15: Medical Records, [REDACTED] 19)
8. On [REDACTED] 2019, CHNCT received a Prior Authorization Request from the Appellant's treating plastic surgeon for a panniculectomy for a diagnosis of

pyoderma gangrenosum, localized adiposity, panniculitis and erythema intertrigo. The surgery is not a weight loss procedure but intended to relieve intertrigo, rashes or infections underneath the pannus. (Hearing Summary, Exhibit 1)

9. On [REDACTED] 2019, CHNCT made a determination that the Appellant's requested procedure is not medically necessary because the documentation submitted indicates the Appellant has had an episode of panniculitis with cultures positive for staph and E Coli. She was treated with Bactrim and antifungal cream with complete resolution. In addition, the photos provided do not document that the pannus hangs below the level of the pubis. (Hearing Summary, Exhibit 1, Exhibit 2: Medical Review, [REDACTED]/19)
10. The Department's guidelines mandate that the pannus must hang below the level of the pubis and that there is the inability to maintain the hygiene of the lower abdomen and genital area or that there is chronic intertrigo consistently recurrent over three months despite medical therapy. (Exhibit 2)
11. On [REDACTED] 2019, CHNCT sent the Appellant a Notice of Action denying authorization for the panniculectomy because the documentation submitted by the Appellant's plastic surgeon and medical providers does not indicate the excess skin hangs below the pubic bone and that the excess skin is the cause of the skin problems that cannot be helped with prescription medications and creams. (Exhibit 3: NOA English, [REDACTED] 19, Exhibit 4: NOA Spanish, [REDACTED]/19)
12. [REDACTED] 2019, the Appellant requested an expedited appeal for the denial of prior authorization for the surgery. (Exhibit 5: Administrative Hearing Request, [REDACTED] 19)
13. On [REDACTED] 2019, CHNCT sent a letter to the treating plastic surgeon requesting additional information to support the medical necessity of his request for prior authorization of the surgery. (Hearing Summary, Exhibit 8)
14. On [REDACTED] 2019, CHNCT sent a letter to the Appellant's medical provider1 requesting additional information to support the medical necessity of the plastic surgeon's request for prior authorization of the surgery. (Hearing Summary, Exhibit 12)
15. On [REDACTED] 2019, a response was received from the Appellant's medical provider2. (Exhibit 15)
16. The Appellant's surgical wound is not open or painful. (Exhibit 15)
17. Since the Appellant's surgery, she has had multiple bouts of rashes and bacterial infections on her lower abdomen that have been treated with repeated courses of antibiotics and antifungal medications. (Appellant's Testimony, Exhibit 1, Exhibit 15)

18. The Appellant was seen at the [REDACTED] on three separate occasions for recurrent pannus infections. She required an antibiotic as well as an oral and topical anti-fungal medication for treatment. (Exhibit 15)
19. The Appellant has no enlarged abdominal or pelvic lymph nodes. The Appellant has no bowel obstruction. No osseous lesions are detected for the Appellant. There is no evidence of a ventral wall hernia for the Appellant. (Exhibit 1)
20. The Appellant has chronic skin breakdown under her lower abdomen and the area is wet and malodorous. (Appellant's Testimony, Exhibit 1, Exhibit 15)
21. The Appellant was instructed by the treating surgeon to keep the area clean and dry. (Appellant's Testimony)
22. The Appellant's hygiene routine is to wash the area with soap and water, then apply a cream to the area. (Appellant's Testimony)
23. The Appellant is mildly depressed and she has a dysmorphic disordered view of herself and has an obsession regarding her appearance. (Exhibit 15)
24. The Appellant has a history of mental health services. She is currently not seeing a therapist. (Exhibit 16: Medical Records, [REDACTED]/19)
25. The Appellant does not like how the skin around her abdomen makes her feel. She is uncomfortable physically and emotionally. (Exhibit 16)
26. To demonstrate medical necessity for a panniculectomy procedure following massive weight loss, patients must demonstrate significant physical symptoms causing functional impairment that have failed a reasonable trial of medically supervised conservative therapy for an extended period of time and stable weight for an extended period of time greater than one year. On (Exhibit 15)
27. The Appellant's clinical documentation does not demonstrate that she suffers from any significant physical symptoms that are causing functional impairment, impairing her ability to perform activities of daily living. (Exhibit 15)
28. There is no evidence that the Appellant has attempted and failed a reasonable trial of medically supervised conservative therapy to address skin issues and infections. (Hearing Record, Exhibit 1, Exhibit 18: Medical Review, [REDACTED])
29. On [REDACTED] 2019, CHNCT completed its review and upheld its earlier denial of prior authorization for the surgery because the information submitted by the Appellant's plastic surgeon and the medical providers do not show that her excess abdominal skin hangs below the pubic bone. Also, the submitted documentation does not show that the Appellant's skin issues or infections are not controlled with prescription

medications or creams. CHNCT deemed the request for panniculectomy as cosmetic. (Exhibit 18, Exhibit 19: Determination Letter, 0 [REDACTED] 9)

30. On [REDACTED] 2019, CHNCT sent the Appellant a NOA indicating that prior authorization for a panniculectomy was denied because the information provided does not support the medical necessity for a panniculectomy because it is a cosmetic procedure and not considered medically necessary. (Exhibit 19: Determination Letter, [REDACTED] 9)
31. 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], OLCRAH received the hearing request and scheduled an administrative hearing for [REDACTED]. This decision was due no later than [REDACTED]. The hearing was rescheduled at the Appellant's request and was held on [REDACTED]. This caused a 10-day delay and the decision is now due no later than [REDACTED] (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. Medicaid pays for Medicaid-covered services that are medically necessary. Conn. Agencies Regs. 17b-262-531.
3. For purposes of administering the Department's medical programs, the terms "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)]

CHNCT correctly determined there is unsubstantial evidence submitted by the Appellant and her medical providers to show that a panniculectomy would improve or restore any physical function and that the Appellant has not attempted and failed a reasonable trial of medically supervised conservative therapy to address the skin issues and infections.

CHNCT correctly determined there is insufficient evidence submitted for the prior authorization for a panniculectomy to establish that it would prevent, identify, diagnose, treat, rehabilitate or ameliorate the Appellant's medical condition; therefore, the procedure is not medically necessary.

CHNCT correctly determined that the requested procedure is primarily cosmetic in nature; therefore, the procedure is not medically necessary.

DECISION

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


Sybil Mardy
Hearing Officer

Pc: appeals@chnct.org
Fatmata Williams, Department of Social Services, Central Office

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.