

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT06105-3725

██████████ 2019  
Signature Confirmation

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

NOTICE OF DECISION  
PARTY

██████████  
██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department"), through its Administrative Service Organization, Community Health Network of Connecticut ("CHNCT") sent a notice of action ("NOA") to ██████████ (the "mother") denying a request for prior authorization of cranial remolding orthosis for her child, ██████████ (the "child").

On ██████████ 2019, ██████████ Social Worker with the Department of Children and Families ("DCF") and the Authorized Representative (the "AREP") for the child, requested an administrative hearing to contest the denial of cranial remolding orthosis.

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

On ██████████ 2018, 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:

██████████ Social Worker, Child's AREP  
██████████  
Barbara McCoid, RN, CHNCT's Representative  
Sybil Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED], the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether CHNCT's decision to deny cranial remolding orthosis is correct.

### **FINDINGS OF FACT**

1. The child is nine months old [REDACTED] and a recipient of Husky A Medicaid. (Exhibit 1: Prior Authorization request, [REDACTED])
2. The child experienced intrauterine drug exposure. He was exposed to opiates, cocaine, and methadone. (Exhibit A)
3. The child was referred to the Birth-to-Three contractor, [REDACTED] Connecticut, which is an early intervention program, because he was diagnosed with neonatal abstinence syndrome as a result of intrauterine exposure to drugs. (Exhibit 1)
4. On [REDACTED] 2018, Birth-to-Three completed its initial assessment of the child and found there were no significant diagnoses or established conditions. (Exhibit 1)
5. The child receives early intervention services as part of the Birth-to-Three program, which includes developmental therapy, occupational therapy, and physical therapy to address his delays. (Exhibit 1, Exhibit 8: Medical Records from [REDACTED] /19)
6. [REDACTED] the "pediatrician") of [REDACTED] Connecticut is the child's treating pediatrician. (Appellant's Witness' Testimony, Hearing Record)
7. [REDACTED] (the "previous pediatrician") of [REDACTED] Connecticut was the child's previous pediatrician. (AREP's Testimony, Exhibit 1, Exhibit 10: Medical Review Request, [REDACTED] /19)
8. Cranial Technologies is the provider for the cranial remolding orthosis. In addition to information from Cranial Technologies and the referring physician; Rehab associates of Connecticut submitted medical information for a review of eligibility for a cranial orthosis. (Exhibit 1)
9. On [REDACTED] 2019, the previous pediatrician completed an examination of the child and made the following:

- no abnormal findings.
- the child has good hand control and reaches for objects.
- the child rolls over from stomach to back
- the child's neurological higher functions are normal, motor and sensory components and cranial nerves intact.
- the child has no abnormal reflexes.
- the child has no deformity or tenderness of joints and spine with a full range of motion noted.

(Exhibit 9: Additional Medical Records [REDACTED] from [REDACTED])

10. During [REDACTED] 2019, the child was removed from the mother's custody and placed into a new foster home under DCF care. (AREP's Testimony, Exhibit A)

11. On [REDACTED] 2019, the treating pediatrician assessed that the child has moderate brachycephaly and slight plagiocephaly on the left, and his head circumference is normal for his age. (Exhibit 1)

12. On [REDACTED] 2019, DCF completed a Multidisciplinary Evaluation ("MDE") report which indicates that the child has a flat head. DCF informed the foster parent that the child would need a helmet. (Exhibit A: MDE [REDACTED] 19, Exhibit 8)

13. On [REDACTED] 2019, CHNCT received from Cranial Technologies a Prior Authorization ("PA") request for a cranial remolding orthosis (DOC Band) for the child's diagnoses of plagiocephaly. (Exhibit 1)

14. 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 11: Husky Health Provider Policies and Procedures for Cranial Remodeling Devices)

15. The child has a diagnosis of moderate to severe brachycephaly (flattening of the posterior portion of the head), plagiocephaly (misshapen head), developmental delay, neonatal abstinence syndrome, bronchiolitis, and torticollis (twisted neck). (Exhibit A, Exhibit 1, Exhibit 8, Exhibit 9)
16. The child's cranial measurements include the following: Cephalic Index ("C.I.") measured 95%; the Transcranial Diagonal Diameter ("TDD") measured 4 mm. (Exhibit 1, Exhibit 9, Exhibit 11: Medical Review, 04/30/19)
17. The child is unable to sit independently, support himself on his hands and knees, or crawl. He prefers to lay on his back. (Exhibit 11)
18. The child is also well-nourished, well developed, and alert with no acute distress. He exhibits parent-child interaction that is appropriate for the child's age. (Exhibit 1)
19. The child has achieved all developmental milestones. (Exhibit 9)
20. The child is showing progress but still has developmental delays. (Exhibit 8)
21. There is no medical documentation of a two month trial of conservative treatment. (Exhibit 2: Medical Review, [REDACTED] 19)
22. On [REDACTED] 2019, CHNCT sent the mother of the child an NOA indicating that the requested cranial remolding orthosis was denied as not medically necessary because the medical information provided does not show that the child's head deformity has caused his developmental delays. (Exhibit 3: NOA, [REDACTED] 19)
23. [REDACTED] 2019, the AREP appealed the denial of the cranial orthosis. (Exhibit 4: Hearing request, [REDACTED]/19)
24. [REDACTED] 2019, CHNCT notified the treating pediatrician and the previous pediatrician of the AREP's appeal and requested additional information on the medical necessity of the child's need for a cranial orthosis. (Exhibits 6: Medical Record Request, [REDACTED]/19, Exhibit 7: Medical Record Request, [REDACTED] 19)
25. On [REDACTED] 2019, CHNCT reviewed the additional medical information and upheld its previous denial for the cranial remolding orthosis because the documentation submitted states that the child is showing steady improvements in his development without any treatment of his plagiocephaly. (Exhibit 12: Determination Letter, [REDACTED]/19)

26. 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 and scheduled the administrative hearing for [REDACTED] 2019. This decision, therefore, was due no later than [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 provides, in pertinent part, as follows:

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.

Section §17b-262-672 to 17b-262-682 of the Regulation of Connecticut State Agencies provides, in pertinent part, as follows:

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.

Regs., Conn. State Agencies § 17b-262-673(8)

Section 17b-262-675 of the Regulations of Connecticut State Agencies provides, in pertinent part, as follows:

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.

Regs., Conn. State Agencies §17b-262-675

“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.” Regs., Conn. State Agencies § 17b-262-676(a)(1)

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

3. General Statutes § 17b-259b (a) provides in pertinent part, as follows:

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)

Section 17b-262-342 (12) of the Regulations of Connecticut State Agencies provides, in pertinent part, as follows:

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.

Regs., Conn. Stat Agencies § 17b-262-342(12)

CHNCT correctly denied prior authorization for cranial remolding orthosis for the child because the information provided for the PA does not support medical necessity. The medical documentation does not indicate that the developmental delays are related to a medical diagnosis of plagiocephaly and that there was documentation of a failed two month trial of conservative treatment.

**DECISION**

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



Sybil Hardy  
Hearing Officer

Pc: Fatmata Williams, DSS Central Office  
[appeals@chnct.org](mailto: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.