

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

██████████, 2019  
Signature confirmation

Case: ██████████  
Client: ██████████  
Request: 140306

**NOTICE OF DECISION**

**PARTY**

██████████  
re: ██████████, child  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, Community Health Network of Connecticut (“CHNCT”), the Department of Social Services’ contractor for medical claims review, issued ██████████ ██████████ (the “Appellant”) a *Notice of Action* denying her provider’s request for prior authorization of a cranial remolding orthosis for ██████████ (the “child”), her minor child.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2019 postmarked request for an administrative hearing. On ██████████ 2019, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals participated in the administrative hearing:

██████████, Appellant  
Barbara McCoid, RN, CHNCT’s representative  
Eva Tar, Hearing Officer

On ██████████ 2019, the hearing record closed.

**STATEMENT OF ISSUE**

The issue is whether CHNCT correctly denied the provider’s request for prior authorization for a cranial remolding orthosis to treat the child’s plagiocephaly.

**FINDINGS OF FACT**

1. The child's date of birth is [REDACTED]. (Appellant's testimony)
2. The child has a diagnosis of plagiocephaly; his head has posterior quadrant flattening, moderate ear shift, and anterior involvement. (CHNCT's Exhibit 1)(CHNCT's Exhibit 8)
3. On [REDACTED] 2019, the child's cephalic index—the measurement of his cranial width divided by his cranial length—equaled 91.12 percent. (CHNCT's Exhibit 1)
4. The child's plagiocephaly is considered "severe," as his cephalic index exceeded 90 percent. (CHNCT's Exhibit 10)
5. The child met age appropriate milestones at four months old: turning to sounds, smiling, sitting with support, babbling, no head lag when pulled to sitting position, rolling from front to back. (CHNCT's Exhibit 8)
6. [REDACTED], the child's pediatrician, referred the Appellant to the [REDACTED] (the "provider") for treatment of the child's head shape. (Appellant's testimony)(CHNCT's Exhibit 1)
7. The child has medical coverage through the HUSKY program. (CHNCT's Exhibit 3)
8. On [REDACTED] 2019, the provider submitted a prior authorization request to CHNCT for a cranial remolding orthosis for the child. (CHNCT's Exhibit 1)
9. CHNCT considers the use of a cranial remolding orthosis to be cosmetic unless: 1) a child has had surgery to treat cranial synostosis; or 2) a child's severe plagiocephaly has caused that child to fail to meet developmental milestones. (CHNCT's representative's testimony)
10. "Cranial synostosis" is the premature fusion of bones of the cranium, requiring surgical intervention. (CHNCT's representative's testimony)(CHNCT's Exhibit 10)
11. The child has not had surgery on his skull. (Appellant's testimony)
12. On [REDACTED] 2019, CHNCT denied the provider's request for prior authorization of cranial remolding orthosis, citing lack of medical necessity. (CHNCT's Exhibit 2)(CHNCT's Exhibit 3)
13. On [REDACTED] 2019, CHNCT received faxed treatment notes from the child's pediatrician. (CHNCT's Exhibit 8)
14. On [REDACTED], 2019, CHNCT denied the request as not medically needed as the child's doctor had indicated that the child had no delay in development. (CHNCT's Exhibit 10)(CHNCT's Exhibit 11)
15. 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 Appellant's ██████████ 2019 postmarked administrative hearing request and scheduled the administrative hearing for ██████████, 2019. This final decision was due by ██████████ 2019 and therefore is timely.

### CONCLUSIONS OF LAW

1. Section 17b-2 (a)(6) of the Connecticut General Statutes provides: "The Department of Social Services is designated as the state agency for the administration of ... (6) the Medicaid program pursuant to Title XIX of the Social Security Act; ...."

Section 17b-262 of the Connecticut General Statutes provides in part that "[t]he Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...."

2. "The department shall not pay for the following goods or services or goods or services related to the following: ... (12) 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." Conn. Agencies Regs. § 17b-262-342.

Section 17b-259b (a) of the Connecticut General Statutes 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.

Conn. Gen. Stat. § 17b-259b (a).

**CHNCT acted within its authority when it reviewed the provider's request for prior authorization to determine whether the cranial remolding orthosis was medically necessary treatment, as "medically necessary" is defined by Conn. Gen. Stat. § 17b-259b (a).**

2. "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).

**CHNCT correctly considered medical guidelines, clinical criteria, and treatment notes provided by the child's pediatrician during its second review as to whether medical necessity was met.**

**Although his plagiocephaly is severe, the asymmetry of the child's skull is not causing the child to suffer a functional or developmental impairment.**

**The cranial remolding orthosis is not medically necessary for the child, as it would be an intervention to address the cosmetic issue of asymmetry of the child's skull.**

**CHNCT correctly denied the provider's request for prior authorization for a cranial remolding orthosis to treat the child's plagiocephaly.**

#### **DISCUSSION**

The HUSKY program pays for medically necessary treatment; the HUSKY program does not pay for cosmetic treatment.

The Appellant has not proven that the cranial remolding orthosis is necessary to treat a medical need, e.g. that the asymmetry of the child's skull currently causes a functional impairment to his vision and/or hearing or otherwise is impairing his ability to develop age appropriate motor skills. The child's cranial remolding orthosis would treat a cosmetic issue only and therefore cannot be covered by the HUSKY program.

#### **DECISION**

The Appellant's appeal is DENIED.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

cc: CHNCT  
Fatmata Williams, DSS-CO  
Robert Zavoiski, M.D., DSS-CO

### **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.