

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

Client ID # ██████████
Request # 142442

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (“the “Department”) through its Medical Administrative Service Organization, Community Health Network of Connecticut (“CHNCT”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA) denying a request for prior authorization of Husky Medicaid payment for custom foot orthotics.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization for payment of custom foot orthotics.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“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 were present at the hearing:

██████████, Appellant
██████████, Spouse of the Appellant
Robin Goss, Registered Nurse, CHNCT Appeals & Grievances Analyst
Samir Yaseen, Arabic Translator –Interpreters & Translators, Inc. (“ITI”)
Almelinda McLeod, Hearing Officer

On [REDACTED] 2019, the hearing record was closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny prior authorization for payment of custom foot orthotics because it was not medically necessary was correct.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old; (DOB- [REDACTED]). Exhibit 1- Prior Authorization request)
2. The Appellant is a participant in the Husky A Medicaid program as administered by the Department. (Hearing record)
3. CHNCT is the Departments' contractor for reviewing medical request for prior authorization of medical services. (Hearing record)
4. On [REDACTED], 2019, the Appellant was treated by [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] because he presented with pain in his left and right feet. (Exhibit 1, page4)
5. On [REDACTED]19, the Dr. diagnosed the Appellant with Pes planus of both feet, other bursitis, not elsewhere classified, in both left ankle and foot (M71.572) and the right ankle and foot (M71.571) and posterior tibial tendon dysfunction (PTTD) of both lower extremities (M76.821) and (M76.822). (Exhibit 1, page 7)
6. On [REDACTED] 2019, CHNCT received a prior authorization request for custom foot orthotics. (Exhibit 1, prior authorization)
7. On [REDACTED] 2019, CHNCT requested additional clinical information to support medical necessity from the treating Doctor. (Hearing summary and Exhibit 2, page 3)
8. On [REDACTED] 2019, CHNCT re-faxed the [REDACTED] 2019 letter requesting additional clinical information to support the medical necessity to the treating doctor. (Hearing summary and Exhibit 2, page 1)
9. On [REDACTED] 2019, CHNCT received additional information from the treating doctor. (Exhibit 2, page 2)

10. On [REDACTED] 2018, the Appellant's request for prior authorization for custom orthotics was denied. The reviewer noted that custom-fabricated orthotics may be considered clinically appropriate only when there is a failure, contraindication or intolerance to a prefabricated foot orthotic following a failure of conservative medical management at least 6 weeks trial of the pre-fabricated orthotic. (Exhibit 3, Medical review & Husky Health Provider Policy & Procedures on Foot Orthotics)
11. The Appellant has not been prescribed pre-fabricated foot orthotics. The Appellant has not tried pre-fabricated foot orthotics to care for his symptoms. (Appellant's testimony)
12. On [REDACTED] 2019, CHNCT issued a Notice of Action ("NOA") denying the request for custom orthotics. The notice indicated that custom foot orthotics may be medically needed only after other treatments including pre-fabricated foot orthotics have been tried. Since pre-fabricated foot orthotics had not been tried to care for his symptoms, the request for custom foot orthotics had been denied. The custom foot orthotics was determined to not be medically needed at the time. (Exhibit 4, NOA)
13. On [REDACTED], 2019, the Appellant requested an administrative hearing. (Exhibit 5- hearing request form)
14. On [REDACTED] 2019, CHNCT sent a letter to the treating doctor requesting additional documents and a letter of Medical necessity and requested the information no later than [REDACTED] 2019. (Exhibit 8, Letter)
15. On [REDACTED] 2019, CHNCT re-issued the letter to the treating doctor and also issued the letter to another provider [REDACTED] requesting additional documents and a letter of medical necessity no later than [REDACTED], 2019.
16. On [REDACTED] 2019, CHNCT received the same information submitted to them on [REDACTED], with no new information submitted. (CHNCT's testimony)
17. On [REDACTED] 2019, CHNCT submitted the hearing appeal to the medical review team for an evaluation. (Exhibit 12, Appeal Summary)
18. On [REDACTED] 2019, CHNCT's completed the medical review and determined that the prior authorization for custom foot orthotics was again denied because the information submitted did not support the

medical necessity of the custom foot orthotics. CVHNCT sent notice to the Appellant. (Exhibit 14, Determination Letter)

19. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. This decision, therefore, was due no later than [REDACTED] 2019. (Hearing Record)

CONCLUSIONS OF LAW

1. Section § 17b-2 (6) & § 17b-262 of the Connecticut General Statutes provides in part that the Department of Social Services 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.
2. Section § 17b-239(d) of the Connecticut General Statutes addresses medical payments for outpatient hospital services.
3. 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)]

4. 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)]
5. 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)]
6. 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)]
7. CHNCT correctly determined that the Appellant did not provide recent medical documentation to establish that there was at least a 6 week trial

and failure of pre-fabricated orthotics or a contraindication to the use of pre-fabricated inserts.


8. CHNCT was correct to deny the request for custom foot orthotics as it is not medically necessary.

DISCUSSION

The Appellant has suffered from his foot condition since he was approximately 16 or 17 years old. He has tried a change his footgear, a change in his activities, tried exercises, stretching and physical therapy, shoe modifications, over the counter medications, heat, and ice to deal with his foot condition and pain. However, the guidelines state that a prefabricated orthotic must be attempted before custom orthotics can be approved. There is no evidence that the Appellant has tried the prefabricated orthotics nor is there evidence that the treatment failed after at least 6 weeks. As of the date of this hearing, the Appellant is now trying inserts for approximately 15 to 20 days. There is no medical documentation of the insert, or the progression and results of its use; more importantly, there is no information that pre-fabricated orthotics had been tried for at least 6 weeks. Based on the evidence and testimony of this hearing, the denial of the prior authorization for custom orthotics is proper in accordance with regulations.

DECISION

The Appellant's appeal is DENIED


Almelinda McLeod
Hearing Officer

CC: appeals@chnct.org
Fatmata Williams, DSS

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.