

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVE.  
HARTFORD, CT 06105-3725

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

Client ID # ██████████  
Request # 143000

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2019, Community Health Network of Connecticut (“CHNCT”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA) denying his provider’s request for authorization for CT Neck Soft Tissue Scan (the “CT scan”).

On ██████████ 2019, the Appellant requested an administrative hearing to contest the CHNCT’s decision to deny the prior authorization request.

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, 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:

██████████, Appellant  
Robin Goss, RN, CHNCT Representative

Angela Gentry, RN, Evicore Healthcare Representative, participated by telephone  
Aralis Rivera, ITI Translates, Interpreter  
Lisa Nyren, Fair Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether CHNCT's denial of prior authorization through the Medicaid program for a CT Neck Soft Tissue Scan ("CT scan") with contrast as not medically necessary, was in accordance with state law.

### **FINDINGS OF FACT**

1. The Appellant is a participant in the Medicaid program as administered by the Department of Social Services (the "Department"). (Hearing Record)
2. Community Health Network of Connecticut ("CHNCT") is the Department's medical Administrative Services Organization. CHNCT's responsibilities include review of medical requests for prior authorization. (Hearing Record)
3. Evicore Healthcare ("Evicore") is the CHNCT's contractor for review of medical requests for prior authorization of radiology services. (Hearing Record)
4. [REDACTED], MD (the "physician"), is the Appellant's infectious disease physician. (Exhibit 1: Prior Authorization Request and Appellant's Testimony)
5. The Appellant has a diagnosis of [REDACTED]. (Appellant's Testimony)
6. The Appellant complains of neck pain, inability to move neck without pain, and a ball in his throat which is not relieved unless he swallows water. (Appellant's Testimony)
7. On [REDACTED] 2019, CHNCT received a prior authorization request for a CT scan of the neck soft tissue (the CT scan") with contrast noting a diagnosis of dysphagia unspecified. (Exhibit 1: Prior Authorization Request)
8. A CT scan with contrast is an imaging procedure similar to a series of x-rays using intravenous contrast to light up the imaging area. (Evicore Representative's Testimony)

9. Dysphagia is a term used to describe difficulty swallowing or a sensation of food stuck in the neck. (Hearing Record)
10. On [REDACTED] 2019, CHNCT denied the prior authorization request for a CT scan and notified the Appellant. The notice states that CHNCT denied the service requested because CHNCT did not receive enough information from your provider to show that this service is medically necessary for you. Specifically, the physician must give us information to show that the CT scan with contrast material is medically necessary. (Exhibit 3: Notice of Action)
11. On [REDACTED] 2019, the Appellant requested an administrative hearing to contest CHNCT's denial of the prior authorization request for the CT scan. (Exhibit 4: Administrative Hearing Request)
12. On [REDACTED] 2019, CHNCT requested the results of a clinical evaluation relevant to the requested study with a detailed evaluation of the head, neck, and structures of the upper airway and a letter of medical necessity supporting the medical need for the service for the member. (Exhibit 6: Medical Record Request)
13. On [REDACTED] 2019, CHNCT received clinical information dated [REDACTED] 2019 from the physician. The physician writes: "abdominal pain/feeling of dysphagia, unclear etiology, question possibly due to acid reflux or medication side effect due to atazanavir. Also notes to have b/l neck mass, likely enlarged lymph node, of unclear cause on exam as well ... will order CT soft tissue of neck for further evaluation." (Exhibit 7: Clinical Information)
14. On [REDACTED] 2019, CHNCT requested a clinical review of the prior authorization request for CT scan from Evicore. CHNCT submitted the following documents for review to Evicore: appeal summary, prior authorization request, clinical information provided by the physician, and the Department's definition of medical necessity as per regulations Section 17b-259b. CHNCT writes, "Based on the information presented, is the denial of the CT scan neck soft tissue; with contrast (70491), upheld or overturned? If upheld, please provide rationale based on the DSS definition of Medical Necessity. If upheld, what is the alternative for the member?" (Exhibit 8: Medical Review Request)
15. Evicore completed the review of the Appellant's prior authorization request for CT scan. Evicore upheld the denial of the prior authorization request for CT scan and determined the appropriate test of choice as an ultrasound for neck adenopathy followed by an esophagram or endoscopy for dysphagia. CT scan may be appropriate depending on results of ultrasound, esophagram and/or endoscopy. (Exhibit 9: Medical Review)

16. An esophagram is a barium swallow procedure which shows up on an x-ray which analyzes a patient's ability to swallow. (Evicore Representative's Testimony)
17. An endoscopy is a procedure which provides a direct visualization of the throat. (Evicore Representative's Testimony)
18. On [REDACTED] 2019, CHNCT issued a notice of denial to the Appellant. The notice stated that "your appeal to the Husky Health Program of the denial of authorization of CT Scan of Neck Soft Tissue; with contrast that you or your provider requested has been denied." CHNCT cites the principal reason to uphold the denial is that the information submitted does not support the medical necessity for the requested service because you have swollen glands in your neck and difficulty swallowing. The recommended testing for such symptoms is an ultrasound for the swollen glands and esophagram or endoscopy for the difficulty swallowing. After such tests are performed, a CT scan may be the next test depending on the results. The denial of such CT scan is based on Connecticut General Statutes § 17b-259b(a)(5), as set form in the Notice of Action that was already sent to you. (Exhibit 10: English Determination Letter and Exhibit 11: Spanish Determination Letter)
19. On [REDACTED] 2019, CHNCT issued a notice of action. The notice stated the appeal of your request for prior authorization of CT scan remains denied. The information submitted does not support the medical necessity for the CT scan. The information submitted does not support the medical necessity for the CT scan because you have swollen glands in your neck and difficulty swallowing. The recommended testing for such symptoms is an ultrasound for the swollen glands and esophagram or endoscopy for the difficulty swallowing. After such tests are performed a CT scan may be the next test depending on the results. The denial of such CT scan is based on Connecticut General Statutes § 17b-259b(a)(5), not consistent with generally accepted standards of care, and as set form in the Notice of Action that was already sent to you. (Exhibit 12: English Determination Letter and Exhibit 13: Spanish Determination Letter)
20. The Appellant completed an esophagram in the last 60 days. The Appellant is scheduled for an endoscopy on [REDACTED] 2019. (Appellant's Testimony)
21. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), 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. Therefore, this decision is due not later than [REDACTED] 2019.

## **CONCLUSIONS OF LAW**

1. Section 17b-2(a)(6) of the Connecticut General Statutes (“Conn. Gen. Stat.”) 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. 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)]
3. Clinical policies, medical policies, 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)]
4. 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)]
5. 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)]
6. Sections 17b-262-512 through 17b-262-520 inclusive of the Regulations of Connecticut State Agencies (“Regs., Conn. State Agencies”) set forth the Department of Social Services requirements for the payment of radiology services performed by an independent radiology or ultrasound center provided in a freestanding center, which is not part of a physician’s office nor a hospital outpatient department or clinic for clients who are determined eligible to receive services under Connecticut’s Medical Assistance Program pursuant to section 17b-262 of the Connecticut General Statutes (CGS).
  7. *Medical Assistance Program* means the medial assistance provided pursuant to Chapter 319V of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act. The program is also referred to as Medicaid. [Regs., Conn. State Agencies §17b-262-513(14)]
  8. *Radiology* means any diagnostic and treatment service administered through the use of radiant energy. [Regs., Conn. State Agencies § 17b-262-513(19)]
  9. Payment for radiology or ultrasound center services shall be available on behalf of all persons eligible for the Medical Assistance Program subject to the conditions and limitations which apply to these services. [Regs., Conn. State Agencies § 17b-262-515]
  10. The Department shall pay for medically appropriate and medically necessary radiology or ultrasound center services as published in the department’s fee schedule when ordered by a licensed physician or other licensed practitioner of the healing arts. [Regs., Conn. State Agencies § 17b-262-516(a)]
  11. *Medical Necessity or Medically Necessary* means health care provided to correct or diminish the adverse effects of a medical condition or mental illness; to assist an individual in attaining or maintaining an optimal level of health; to diagnose a condition, or to prevent a medical condition from occurring. [Regs., Conn. State Agencies § 17b-262-513(15)]

12. The department shall pay for independent radiology and ultrasound center services which are ordered by a duly licensed physician or other licensed practitioner of the healing arts and which the department deems to be medically necessary and medically appropriate. [Regs., Conn. State Agencies § 17b-262-517(a)]
13. Prior authorization, on forms and in a manner as specified by the department, shall be required for HealthTrack Special Services:
1. HealthTrack Special Services are determined medically necessary and medically appropriate on a case-by-case basis; and
  2. The request for HealthTrack Special Services shall include:
    - A. A written statement from the prescribing physician, or other licensed practitioner of the healing arts, performing such services within his or her respective scope of practice as defined under state law, justifying the need for the item or service requested;
    - B. A description of the outcomes of any alternative measures tried; and
    - C. If applicable and requested by the department, any other documentation required in to render a decision.

[Regs., Conn. State Agencies § 17b-262-517(b)]

14. *HealthTrack Services* means the services describes in subsection (r) of section 1905 of the Social Security Act. [Regs., Conn. State Agencies § 17b-262-513(9)]
15. *HealthTrack Special Services* means medically necessary and medically appropriate health care, diagnostic services, treatment, or other measures necessary to correct or ameliorate disabilities and physical and mental illnesses and conditions discovered as a result of a periodic comprehensive health screening or interperiodic encounter. Such services are provided in accordance with subdivision (5) of subsection (r) of section 1905 of the Social Security Act, and are:
- A. Services not covered under the State Plan or contained in a fee schedule published by the department; or
  - B. Services covered under the State Plan and contained in a fee schedule published by the department which exceed the limit on the amount of services established by the department that are contained in regulation.

[Regs., Conn. State Agencies § 17-262-513(10)]

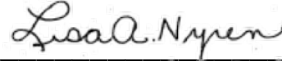
16. *Interperiodic Encounter* means any medically necessary visit to a Connect-icut Medical Assistance provider, other than for the purpose of performing a periodic comprehensive health screening. Such encounters

- include, but are not limited to, physician's office visits, clinic visits, and other primary care visits. [Regs., Conn. State Agencies § 17b-262-513(11)]
17. In order to receive payment from the department a provider shall comply with all prior authorization requirements. The department in its sole discretion determines what information is necessary in order to approve a prior authorization request. Prior authorization does not, however, guarantee payment unless all other requirements for payment are met. [Regs., Conn. State Agencies § 17b-262-517(c)]
  18. *Prior authorization* means approval for the provision of a service or the delivery of goods from the department before the provider actually provides the service or delivers the goods. [Regs., Conn. State Agencies § 17b-262-513(16)]
  19. For prior authorization, to determine medical appropriateness and medical necessity, shall be required as a condition of payment for certain Medical Assistance Program goods or services as set forth in the regulations of the department governing specific provider types and specialties. The department shall not make payment for such goods and services when such authorization is not obtained by the provider of the goods or services. [Conn. State Agencies Regs. § 17b-262-528(a)]
  20. The CT scan is not medically necessary for the Appellant because the CT scan is not consistent with general accepted standards of care based on an assessment of the member and his medical condition; specifically the recommended testing for swollen glands is an ultrasound and an esophagram or endoscopy is the recommended test for difficulty swallowing.
  21. CHNCT was correct to deny the prior authorization request for CT scan because the CT scan failed to meet the medical necessity criteria in accordance with state statutes and regulations.



**DECISION**

The Appellant's appeal is denied.



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Lisa A. Nyren  
Fair Hearing Officer

CC: Robin Goss, CHNCT, [appeals@chnct.org](mailto:appeals@chnct.org)  
Fatmata Williams, 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 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.