

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 #146091

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, Community Health Network of Connecticut (“CHNCT”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) partially denying her provider’s prior authorization (“PA”) request to perform surgical procedures. The requests for upper jaw surgery, lower jaw surgery and use of an oral splint were approved. The requests for chin surgery and fat harvesting and implantation were denied as not medically necessary.

On ██████████, 2019, the Appellant requested an administrative hearing because she was aggrieved by CHNCT’s denial of three requested procedures.

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  
Barbara McCoid, Clinical Quality Specialist, CHNCT  
James Hinckley, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue is whether CHNCT's decision to deny the Appellant's provider's request for Genioplasty (chin surgery), Fat Harvesting and Fat Injection as not medically necessary was in accordance with state statute and regulations.

## **FINDINGS OF FACT**

1. The Appellant is a 31 year old recipient of HUSKY D Medicaid. (Hearing Record)
2. CHNCT is the administrative services organization ("ASO") for the Department of Social Services (the "Department"). (Hearing Record)
3. The Appellant has skeletal misalignment of her upper and lower jaws. The length of her mandible (lower jaw) is 141.7 millimeters which is more than twelve standard deviations from the normal value of 92.3 millimeters. She has numerous dentofacial and craniofacial measurement values that deviate significantly from normal. The discrepancies cause her teeth to be misaligned and cause difficulties with chewing food and speaking. In order to try to speak and chew properly she must reposition her jaw, which places strain on her temporomandibular joints ("TMJ"s) and causes pain and discomfort. (Hearing Record, Appellant's testimony)
4. The Appellant has had past orthodontic treatment for one-and-a-half years, but orthodontic treatment cannot by itself resolve the functional problems caused by the Appellant's underlying skeletal discrepancies. (Hearing Record)
5. On ██████, 2019, CHNCT received a prior authorization ("PA") request from ██████ ██████, MD, DMD, a craniofacial plastic surgeon (the Appellant's "Treating Physician"), that requested approval to perform surgical procedures on the Appellant. Additional supporting materials for the PA request were provided to CHNCT on ██████, 2019. The supporting documentation included comprehensive dentofacial and craniofacial measurements for the Appellant with comparison to normal measurements, cephalometric x-ray images, photographs, and a narrative explaining the rationale for the requested procedures. The requested procedures were as follows:
  - a. LeFort I Osteotomy – surgery to reposition the Appellant's upper jaw in order to improve occlusion of the teeth, open the airway, and allow the lips to meet and function properly.
  - b. Bilateral Sagittal Split Osteotomy or "BSSO" – surgery to reposition the Appellant's lower jaw in order to correct the occlusion and incisal relationship, open the airway, and relieve the positioning requirement and strain placed on the TMJs.

- c. Surgical Splint – utilized to ensure stability of the bony repositioning both during and immediately following the surgery.
- d. Genioplasty – surgery to improve the asymmetric position of the chin.
- e. Fat grafting, consisting of separate procedures for harvesting and injection of the fat – used to correct and contour any sites of anatomic irregularity or hollowing following the jaw repositioning surgeries.

(Ex. 1: PA Request, Ex. 2: Supplemental Information)

6. On [REDACTED] 2019, Richard M. Cowett, MD, a medical reviewer for CHNCT, reviewed the medical information supporting the PA request and issued a partial denial. The procedures LeFort I Osteotomy, BSSO, and Surgical Splint were approved. The procedures Genioplasty and Fat Harvesting/Fat Grafting were denied. The rationale for the denial was that the documentation did not demonstrate that the denied procedures were intended to improve or restore a functional issue, like chewing or speaking. (Ex. 3: Care Manager medical review)
7. On [REDACTED], 2019, CHNCT issued a NOA to the Appellant partially denying the provider's PA request. The requests for Lefort I (upper jaw surgery), bilateral sagittal split osteotomy (lower jaw surgery) and the oral splint were approved. The requests for genioplasty (chin reconstruction surgery) and the fat graft/injections were denied as not medically necessary. The NOA stated the information sent by the Appellant's provider did not show that the denied procedures were intended to improve or restore a functional issue such as chewing or speaking. (Ex. 4: NOA)
8. On [REDACTED], 2019, the Appellant requested an administrative hearing to appeal the denial of genioplasty and fat graft/injections. (Hearing Record)
9. On [REDACTED], 2019, CHNCT notified the Treating Physician that the Appellant had filed an appeal. CHNCT requested information from the provider to support the appeal, including: 1.) Clinical information that would show that the genioplasty and fat graft/injections intend to improve or restore a functional issue; and 2.) A letter of medical necessity as to why the genioplasty and fat graft/injections are medically necessary. The Treating Physician's office notified CHNCT's appeal representative (Ms. McCoid) that it had no new information to send over. (Ex. 7 Appeal Notice to Provider, Hearing Summary/Record)
10. On [REDACTED], 2019, CHNCT sent the Appellant's medical records to its contractor, Network Medical Review Co. Ltd. ("NMR") to conduct an appeal review. (Ex. 8: Appeal Review Referral, Ms. McCoid's testimony)
11. On [REDACTED], 2019, NMR completed the appeal review. The review upheld the denial of genioplasty and fat grafting injections. The rational for upholding the denial included, "The genioplasty and fat grafting will not treat the difficulty with mastication.

The treatment would be consistent with generally accepted standards of medical practice to improve the appearance but not to improve function. It is also clinically appropriate to improve the appearance but not function and it would be for the convenience of the patient. It is more costly than the alternative treatment which is no treatment. Genioplasties are medically necessary and non-cosmetic when performed to treat sleep apnea or lip incompetence..." (Ex. 9: NMR Appeal Review)

12. The Appellant does not have sleep apnea or lip incompetence. Her Treating physician requested the genioplasty "to improve the asymmetric position of the chin", and requested the fat graft/injections "to correct and contour any sites of anatomic irregularity or hollowing..." (Hearing Record)
13. On [REDACTED], 2019 CHNCT sent the Appellant a letter advising her that her "appeal to the HUSKY Health Program of the denial of authorization for genioplasty (chin surgery) and fat graft/injections that you requested has been DENIED". (Ex. 10: Appeal Denial Letter)
14. On [REDACTED] 2019, the Appellant's Treating Physician's office provided a letter of medical necessity in support of the Appellant's fair hearing. The letter stated, in relevant part, "(the Appellant) presented for initial evaluation on [REDACTED]/19 due to concerns with dentofacial abnormalities, specific symptoms include: trouble with eating, trouble speaking, and discomfort. The following withheld codes serve as a medical necessity for (the Appellant's) case. These are to include: A Genioplasty to improve the asymmetric position of the chin. Fat grafting to correct and contour any sites of anatomic irregularity or hollowing following the shift in the position of the jaw or underlying bony structures." (Ex. 11: Medical Necessity Letter)

### **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. Section 17b-2, 17b-262 of the Connecticut General Statutes (Conn. Gen. Stat.)
2. Conn. Gen. Stat. §17b-259b(a) provides 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. (emphasis added)

3. **Fat graft/injections were requested for the Appellant in order to try to achieve the most pleasing aesthetic result following the surgeries to her upper and lower jaws. Her Treating Physician requested them in order to “correct and contour any sites of anatomic irregularity or hollowing...” The procedures are purely cosmetic in nature.**
4. **While genioplasty can be medically necessary and non-cosmetic when performed to treat sleep apnea or lip incompetence, there is no evidence the Appellant has either of those conditions.**
5. **Genioplasty was requested for the Appellant in order to “improve the asymmetric position of the chin.” There is no evidence that asymmetry of the Appellant’s chin causes her any functional problems, or that correcting the asymmetry will in any way improve her health condition. Genioplasty, in the Appellant’s case, was requested for cosmetic reasons.**
6. **Medically necessary health services are those that are required to treat an individual’s medical condition in order to attain or maintain the individual’s achievable health and independent functioning. Neither genioplasty nor fat graft/injections are intended to address the Appellant’s health or independent functioning. The procedures are, therefore, not medically necessary.**
7. **CHNCT, acting in its capacity as ASO for the Department, was correct when it denied the Appellant’s provider’s PA request for approval of genioplasty and fat graft/injections, in accordance with state statute and regulations.**

### **DISCUSSION**


The Appellant wrote, in part, in her hearing request that, “your most recent letter of denial of the request from my current provider for authorization of genioplasty does not support your previous approval for the same procedure under the same Connecticut law defining medically necessary services.”

There is evidence in the record that a hearing decision was issued by OLCRAH more than a year ago approving genioplasty for the Appellant. The Appellant and her treating physician at the time did not, for their own reasons, have the surgery performed by the date the approval for the surgery expired.

I have not read, and make no reference to, the prior hearing decision because it has no bearing on the current appeal. The prior hearing had a different set of facts and circumstances, and was decided by a different hearing officer. This hearing concerns a new and unrelated PA request and can be decided based only on the evidence in *this* hearing record.

**DECISION**

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

  
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James Hinckley  
Hearing Officer

cc: [appeals@chnct.org](mailto:appeals@chnct.org)  
Fatmata Williams

### **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 06105-3725.

### **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, 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.