

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 # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, Connecticut Behavioral Health Partnership (“CBHP”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for a Neuropsychological Testing.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the denial of a Neuropsychological Testing.

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
Dr. Sandrine Pirard, CBHP Representative
Matthew Lechkun, CBHP Clinical Liaison
Mark Vanacore, DMHAS Clinical Manager
Roberta Gould, Hearing Officer

At the Appellant’s request the hearing record was held open for the submission of additional evidence. The hearing record closed on ██████████, 2019.

STATEMENT OF THE ISSUE

The issue to be decided is whether CBHP's decision to deny Neuropsychological Testing for the Appellant because these services were not medically necessary is correct.

FINDINGS OF FACT

1. The Appellant is ■ years old. (Hearing record)
2. The Appellant is a participant in the Medicaid program, as administered by the Department. (Hearing Summary)
3. The Appellant was diagnosed with an Asperger's syndrome pervasive developmental type disorder as well as an attention deficit hyperactivity disorder when he was 10 years old. (Exhibit 8: The Institute of Living psychiatric consultation dated ■ and Appellant's testimony)
4. As a child, the Appellant received special education services, speech therapy, language therapy and a prescription for Ritalin. (Exhibit 8)
5. The Appellant has a current diagnosis of Unspecified Bipolar Disorder, alcohol abuse, and Attention-Deficit/Hyperactivity Disorder ("ADHD"). (Exhibit 1: Precertification review and Hearing summary)
6. The Appellant has not been diagnosed with any organic brain disease, with traumatic brain damage or any complications during gestation or birth. (Exhibit 2: Peer advisor review and Hearing summary)
7. The Appellant has difficulty concentrating, memory issues, difficulty with interpersonal relationships, and disordered thinking. (Exhibit 1 and Hearing summary)
8. The Appellant has a history of alcohol substance abuse. (Appellant's testimony and Hearing summary)
9. The Appellant has prescriptions for Concerta, for treatment of ADHD; Abilify, for treatment of depression; Buspar, for treatment of anxiety; and Xanax, for treatment of depression. (Appellant's testimony and Hearing summary)
10. The Appellant is not currently taking any anti-depressant or anti-anxiety medications being prescribed for him. (Appellant's testimony)
11. The Appellant is currently taking Adderall for treatment of ADHD. (Appellant's testimony)

12. On [REDACTED], 2019, [REDACTED], LLC submitted a pre-authorization request for 14.17 hours of neuropsychological testing services for the Appellant. (Exhibit 1 and Hearing summary)
13. On [REDACTED] 2019, CBHP telephoned [REDACTED], LLC and left a message that a peer-to-peer review is required to determine the medical necessity of neuropsychological testing services for the Appellant. (Exhibit 1)
14. On [REDACTED], 2019, CBHP made two attempts to reach [REDACTED], LLC regarding the necessity of a peer review. (Exhibit 1)
15. An opportunity for initial telephonic peer-advisory review was not utilized by the professional requesting authorization for services despite multiple phone calls, messages and attempts on the part of the Clinical Care Manager at CBHP to speak directly with the provider. (Exhibit 2 and Hearing summary)
16. On [REDACTED] 2019, Dr. Paulo Correa, Beacon Health Options Associate Medical Director, reviewed the request for authorization of 14.17 hours of neuropsychological testing services for the Appellant and made a determination to deny the pre-authorization request because the service is not medically necessary or clinically appropriate, and the diagnosis and treatment of his conditions can be accomplished with a clinical evaluation by a mental health professional. (Exhibit 3: Notice of action for denied services dated [REDACTED] and Hearing summary)
17. On [REDACTED] 2019, CBHP's Medical Director, Dr. David Aversa, completed a Level I Appeal review and spoke with the Appellant by phone. Dr. Aversa made a determination to uphold the original denial because the clinical information provided by the neuropsychologist and the Appellant does not indicate that his symptoms and functional impairment supported the medical necessity for neuropsychological testing. Dr. Aversa determined that there were no signs that the Appellant suffered from a brain disease or that he has any brain damage. (Exhibit 4: Appeal determination dated [REDACTED] Exhibit 6: Peer advisory review determination and Hearing summary)
18. 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]. The hearing record remained open for the admission of evidence until [REDACTED], at the Appellant's request. Therefore, this decision is due not later than [REDACTED].

CONCLUSIONS OF LAW

1. Section §17b-2(8) of the Connecticut General Statutes provides 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.
2. Section §17b-262 of the Connecticut General Statutes provides that the Department may make such regulations as are necessary to administer the medical assistance program.
3. Section §17b-259b(a) of the Connecticut General Statutes provides that

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.

Section §17b-259b(b) of the Connecticut General Statutes provides that

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.

Section §17b-259b(c) of the Connecticut General Statutes provides that

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.

CBHP was correct when it denied the request for Neuropsychological Testing for the Appellant on the basis that is not medically necessary for him and that clinical information provided by the neuropsychologist and the Appellant does not indicate that his symptoms and functional impairment support the medical necessity for neuropsychological testing.

On [REDACTED], 2019, CBHP correctly denied the Appellant's request for prior authorization of Neuropsychological Testing for the Appellant.

DISCUSSION

After reviewing the evidence and testimony presented at the hearing, I find that CBHP's action to deny Neuropsychological Testing for the Appellant is upheld. The Appellant has a current diagnosis of Unspecified Bipolar Disorder, alcohol abuse, and Attention-Deficit/Hyperactivity Disorder, but there is no evidence to suggest that he has been diagnosed with any organic brain disease, with traumatic brain damage or any complications during gestation or birth. Although he has been prescribed several medications to treat his depression, anxiety and ADHD, he has stopped taking those medications and only continues to use Adderall for treatment of his ADHD. Also, a telephonic peer-advisory review was not utilized by the professional requesting authorization for services despite multiple attempts to contact them.

I find that Neuropsychological Testing is not required to treat the Appellant's condition and that a clinical evaluation by a mental health professional is clinically appropriate, as outlined in Connecticut General Statutes Section §17b-259b.

DECISION

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

A handwritten signature in black ink, appearing to read 'Roberta Gould', written over a horizontal line.

Roberta Gould
Hearing Officer

CC: Fatmata Williams, DSS, Central Office
Colleen Harrington, DMHAS
Mark Vanacore, DMHAS
Lynne Ringer, Beacon Health Options
Rebecca Arther, Beacon Health Options
Erika Sharillo, Beacon Health Options

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, 25 Sigourney Street, Hartford, CT06106.

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, 25 Sigourney Street, Hartford, CT06106. 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.