

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

██████████ 2020
Signature Confirmation

Case # ██████████
Client ID # ██████████
Request # 154845

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, Community Health Network of CT (“CHNCT”) Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her request for prior authorization for a cranial remolding orthosis for ██████████, (the “minor child”).

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department’s decision to deny the prior authorization.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████, 2020.

On ██████████ 2020, 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
██████████, Minor child’s father
Heather Shea, Community Health Network, Appeals & Grievances Analyst
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the CHNCT's decision to deny the Appellant's prior authorization request for approval of a cranial remolding orthosis, as not medically necessary pursuant to Section 17b-259b of the Connecticut General Statutes is correct.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child. (Hearing record)
2. The minor child and his twin sibling were born on [REDACTED] 2019. (Hearing record)
3. Dr. [REDACTED] is the child's pediatrician and the referring medical provider. (Hearing record)
4. The child was diagnosed with Plagiocephaly (deformity of the skull) and Torticollis (condition causing an asymmetric problem with his head and neck position, specifically stiffness of the neck on the right side) (Hearing record, Exhibit 1, prior authorization)
5. On [REDACTED], 2020, the provider's report was that the child was not meeting milestones for his age. Specifically lifting his head with tummy time, rolling from belly to back and unable to keep his head centered when watching faces or toys while lying on his back. Due to his restricted range of motion, his condition will not improve. (Exhibit 1)
6. On [REDACTED] 2020, the medical provider included in the letter the medical necessity of a cranial orthosis (DOC band treatment) after 5.5 weeks of physical therapy ("PT") and neck exercises with Connecticut Children's Medical Center ("CCMC"). Also indicated that if not corrected, the head will remain permanently deformed. (Exhibit 1 and Exhibit 12)
7. On [REDACTED], 2020, CHNCT, the Department's medical subcontractor, received a prior authorization request from Cranial Technologies, a vendor for durable medical equipment ("DME") for approval of a cranial remolding orthosis to treat the minor's child diagnosis of Plagiocephaly and torticollis. (Exhibit 1)
8. On [REDACTED] [REDACTED] 2020, CHNCT requested the child's cranial measurements and requested the additional information by [REDACTED] 2020. (Exhibit 2)

9. On [REDACTED] 2020, CHNCT received the requested information. The cephalic Index measured at 78.2 and the trans diagonal difference (the measurement of the asymmetry of the cranium) was 11 mm. (Exhibit 3)
10. On [REDACTED] [REDACTED], 2020, CHNCT medical reviewer denied prior authorization because, at the time, the child had only 1 month of PT. According to DSS Policy on Cranial Remolding Devices, a cranial orthosis can be medically necessary when documents show that after a two month trial of PT, there is no substantial improvement. (Exhibit 4 and Exhibit 15A)
11. On [REDACTED] 2020 a NOA was issued to the Appellant advising her that the prior authorization for the cranial remolding orthosis was denied because it was not medically necessary per section 17b-259B (a) (5) of the Connecticut General Statute. The medical notes did not show results of improved condition after 2 months of PT. (Exhibit 5)
12. On [REDACTED] 2020 a peer to peer review was conducted between the medical provider and Dr. Sandra Carbonari, CHNCT medical reviewer, indicating that no measurements were provided after his 2 months of conservative treatment. The prior authorization for the cranial remolding orthosis was again denied. (Exhibit 6)
13. On [REDACTED] 2020, the Appellant requested an administrative hearing (Exhibit 7)
14. On [REDACTED] [REDACTED] 2020, CHNCT acknowledged the Appellant's appeal request and advised where to send additional information. (Exhibit 8)
15. On [REDACTED] 2020, CHNCT advised the referring medical provider of the appeal and where to send additional information. (Exhibit 9)
16. On [REDACTED] 2020, CHNCT advised Cranial Technologies, Inc. of the appeal and where to send additional information. (Exhibit 11)
17. On [REDACTED] 2020, CHNCT received updated PT treatment notes from CCMC and updated medical records from Cranial technologies which reported the child's cephalic index measured at 80.8 and the trans diagonal difference measured at 10mm. (Exhibit 12)
18. In order for the cranial orthosis to be considered medically necessary, the cephalic index must be 93% or greater and the trans diagonal difference must be greater than 10 mm. (Exhibit 15 and 15A)

19. On [REDACTED], 2020, CHNCT completed a medical review and upheld the previously denied prior authorization as the request did not meet the criteria for medical necessity. (Exhibit 16)
20. CHNCT's recommendation was to continue with physical therapy and increase tummy time as alternative treatments. (Exhibit 15)
21. On [REDACTED], 2020, CHNCT issued a NOA to the Appellant notifying her that the prior authorization for the Cranial remolding orthosis was denied because neither measurements provided met the policy requirements. (Exhibit 17)
22. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to "not later than 120 days " after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated [REDACTED], 2020. The Appellant requested an administrative hearing on [REDACTED] 2020. Therefore this final decision is not due until [REDACTED], 2020, and is therefore timely.

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 (6) 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. Sections § 17b-262-672 to 17b-262-682 of the Regulations of Connecticut State Agencies set forth the Department of Social Services requirements for the payment of durable medical equipment ("DME") to providers, for clients who are determined eligible to receive services under Connecticut Medicaid pursuant to section 17b-262 of the Connecticut General Statutes.
3. Regulations of Connecticut State Agencies § 17b-262-673 (8) provides "Durable medical equipment" or "DME" means equipment that meets all of the following requirements: A. Can withstand repeated use; B. Is primarily and customarily used to serve a medical purpose; C. Generally is not useful to a person in the absence of an illness or injury; and D. is not disposable.
4. Regulations of Connecticut State Agencies § 17b-262-675 provides payment for DME and related equipment is available for Medicaid clients who have a medical need for equipment which meets the department's definition of DME when the item is prescribed by a licensed practitioner, subject to the

conditions and limitations set forth in sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies.

5. Regulations of Connecticut State Agencies § 17b-262-676(a)(1) provides that the Department shall pay for the purchase or rental and repair of DME, except as limited by sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies, that conforms to accepted methods of diagnosis and treatment and is medically necessary and medically appropriate.
6. **A cranial remolding orthosis meets the definition of durable medical equipment per regulation.**
7. The Connecticut Husky Health guidelines for Cranial Remodeling Devices (remodeling bands or helmets) may be considered medically necessary :
 - A. For the treatment of synostosis deformities when a pediatric neurosurgeon, craniofacial surgeon or other board certified physician has documented the need for surgical correction of craniosynostosis and the need for post- operative cranial orthotic; **or**
 - B. For the treatment of nonsystolic positional cranial deformity in infants between ages 4 to 12 months of age when:
 1. A pediatric neurosurgeon, craniofacial surgeon or other board certified physician with specific expertise in the treatment of craniosynostosis or nonsynostotic cranial deformity has determined that the infant does not have craniosynostosis;
 2. A pediatric neurosurgeon, craniofacial surgeon or other board certified physician with specific expertise in the treatment of craniosynostosis or nonsynostotic cranial deformity has determined that the infant has a moderate to severe skull deformity (cephalic index greater than or equal to 93% or a trans diagonal difference greater than 10 mm) that, unless corrected by a cranial orthotic, is likely to result in significant permanent deformity; and
 3. For children under 6 months of age, asymmetry has not been substantially improved following a two month trial of conservative therapy consisting of: a. reducing the amount of awake time the infant spends directly supine on their back, supervised tummy time, repositioning of the child's head such that the child lies opposite to the preferred position and periodically change the location of the crib in the nursery. b. For children with congenital torticollis, asymmetry has not been substantially improved following a two month trial of physical therapy.

4. The medical record should document the presence of both A and B. The use of a cranial remodeling for individuals not meeting the above criteria is considered cosmetic in nature, and is therefore not medically necessary and cannot be covered by Medicaid.
8. Regulations of Connecticut State Agencies §17b-262-998 (2) pertains to services not covered which includes services that are not medically necessary.
9. Connecticut General Statutes § 17b-259b (a) 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.
10. Connecticut General Statutes § 17b-259b (b) provides 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.
11. Regulations of Connecticut State Agencies § 17b-262-342 (12) provides 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.
- 12. Based on the child's assessment and his medical condition which included, the latest measurements provided (cephalic index at 80.8 and the trans diagonal difference at 10mm) CHNCT correctly determined**

the child does not meet the standard of moderate to severe skull deformity and the criteria of medical necessity was not met.

13. CHNCT correctly denied the prior authorization for the cranial remodeling Orthosis for the child because it is not medically necessary to address the child plagiocephaly and torticollis and would not be covered in accordance with state statute and regulations.

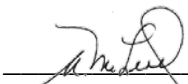
DISCUSSION

The Appellant expressed concern that the child's diagnosis of plagiocephaly and torticollis would have long term effects on his development and that he would need to specifically fitted for sports safety equipment or wearing glasses in the future. Because the time frame to get the DOC band treatment is from 4 months to 12 months of age, the sooner the child gets treatment the shorter the duration of his treatment. The Appellant testified that the numbers were close to the guidelines and believes that the approval of the DOC band treatment would be the appropriate course of action.

However, the measurements established in the DSS coverage policy which states that a child with a moderate to severe skull deformity measures with cephalic index of 93% or greater and that the trans diagonal difference was greater than 10mm. With a reported cephalic measurement of 80.8 and a trans diagonal measurement at 10mm, neither measurement provided met this guideline.

DECISION

The Appellant's appeal is DENIED



Almelinda McLeod
Hearing Officer

CC: appeals@chnct.org
Fatmata.Williams@ct.gov
Heather Shea, Appeals & Grievance Analyst, CHNCT

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.