

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

██████████ █ 2021
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 180140

NOTICE OF DECISION

PARTY

████████████████████
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PROCEDURAL BACKGROUND

On ██████████ █ 2021, Community Health Network of Connecticut (“CHNCT”) sent ██████████ ██████████ █ (the “Appellant”) a Notice of Action (“NOA”) denying his provider’s request for authorization for Computed Tomographic (“CT”) colonography with contrast.

On ██████████ █ 2021, the Appellant requested an administrative hearing to contest the CHNCT’s decision to deny the prior authorization request.

On ██████████ █ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ █ 2021.

On ██████████ █ 2021, 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
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's ██████ 2021 denial of prior authorization through the Medicaid program for a CT colonography 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 responsible for medical case management under Medicaid which includes review of medical requests for prior authorization. (Hearing Record)
3. EviCore Healthcare ("eviCore") is the CHNCT's contractor that reviews prior authorization requests for radiology services. (Hearing Record)
4. ██████ (the "gastroenterologist"), is the Appellant's gastroenterologist. (Hearing Record)
5. The Appellant has a diagnosis of disease of intestine unspecified, fatty liver, and personal history of colonic polyps. (Exhibit 1: Prior Authorization Request)
6. The Appellant complains of intermittent pain at the coccyx, tailbone region. The Appellant has not discussed such pain with his primary care physician or an orthopedist. (Appellant's Testimony)
7. On ██████ 2021 the gastroenterologist performed a colonoscopy on the Appellant to screen for colorectal malignant neoplasm. This is the Appellant's first colonoscopy. The procedure found: large hemorrhoids, semi-sessile polyps 2-10 mm in size which were removed with cold snares, 20 mm polyp which was removed with a hot snare, four submucosal nodules 6-15 mm in size which were probed and biopsied. The gastroenterologist commented, "The exam was otherwise normal throughout the examined colon. ... The examined portion of the ileum was normal." The gastroenterologist recommended: "Await pathology results. ... Continue present medication. Repeat colonoscopy for surveillance based on pathology results." (Exhibit 1: Prior Authorization Request and Appellant's Testimony)
8. A colonoscopy is a procedure in which a colonoscope is passed through the anus and advanced through the colon allowing the physician to view

- the colon and screen for colorectal cancer. (Exhibit 1: Prior Authorization Request and eviCore Representative's Testimony)
9. On [REDACTED] [REDACTED] 2021, the surgical pathology report lists the biopsy results as "non-neoplastic colonic mucosa with lamina propria adipocytes, consistent with lipoma [and] negative for significant histopathologic changes." (Exhibit 1: Prior Authorization Request)
 10. The gastroenterologist writes, "The cecal submucosal lesion was consistent with a lipoma on pathology, however, the other submucosal lesions were unremarkable." (Exhibit 1: Prior Authorization Request)
 11. Lipoma and adenoma refer to benign fatty tissue. (CHNCT's Representative's Testimony)
 12. On [REDACTED] [REDACTED] 2021, the Appellant had a Computed Tomography scan ("CT scan") of the abdomen and pelvis with contrast as ordered by the gastroenterologist for further review of submucosal colonic lesions. The results of the CT scan identified "No colonic mass lesions." (Exhibit 1: Prior Authorization Request and CHNCT Representative's Testimony)
 13. At the [REDACTED] [REDACTED] 2021 office visit with the gastroenterologist, the Appellant reported he is doing well and denied any gastrointestinal symptoms such as recurrent hemorrhoid symptoms, denied constipation, diarrhea, black or bloody stools, abdominal pain, nausea, vomiting, weight loss or change in appetite. (Exhibit 1: Prior Authorization Request)
 14. On [REDACTED] [REDACTED] 2021, CHNCT received a prior authorization request from the gastroenterologist for a CT colonography with contrast noting a diagnosis of disease of intestine, unspecified, fatty (change of) liver, not elsewhere classified, and personal history of colonic polyps. (Exhibit 1: Prior Authorization Request)
 15. On [REDACTED] [REDACTED] 2021, CHNCT received the following documents from the gastroenterologist: Gastroenterology Procedures/Colonoscopy [REDACTED] [REDACTED] 2021 Report, Computed Tomography [REDACTED] [REDACTED] 2021 Report, Lab View Report [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] 2021, and [REDACTED] [REDACTED] 2021, Office Clinic Notes [REDACTED] [REDACTED] 2021, and Surgical Pathology Report [REDACTED] [REDACTED] 2021. (Exhibit 1: Prior Authorization Request)
 16. A CT colonography, also known as a virtual colonoscopy, is a CT scan of your colon to provide a detailed view of the inside of the colon used to screen for colon cancer. A CT colonography is usually performed in place of a colonoscopy when the patient is unable have a regular colonoscopy for various medical reasons. Contrast is a special dye used to light up the

imaging area. (eviCore Representative's Testimony and CHNCT Representative's Testimony)

17. EviCore guidelines for radiology services provide as follows: Diagnostic CT colonography with contrast may be approved if "there is a known obstructing colorectal malignancy so that staging prior to surgery can be performed, if desired [or] there is a clearly stated indication for IV contrast to evaluate extra-colonic organs." (Exhibit 10: Medical Review Request and eviCore Representative's Testimony)
18. On [REDACTED] [REDACTED] 2021, eviCore reviewed the prior authorization request for the CT colonography and denied the request. EviCore commented, "The reason this request cannot be approved is because you must have one of the following: (1) known disease in your large bowel that is causing a blockage, and the study will show the extent of the disease (staging) prior to surgery; or (2) A clear reason for IV (intravenous) contrast to assess other organs in the body that are not in the large bowel. Your records show that the same study or a test like it has been done for you. They also show the results of this test. The prior study showed your doctor what they needed to see in order to treat your condition. Repeat imaging is not supported without results of prior imaging that show a clear reason for it." (Exhibit 2: Medical Review)
19. On [REDACTED] [REDACTED] 2021, Dr. Christine Habib, general surgeon with CHNCT, spoke with the [REDACTED] [REDACTED] [REDACTED] at the gastroenterologist's office and confirmed the Appellant's CT scan showed no evidence of disease and the gastroenterologist did not have additional medical documentation for review. (CHNCT Representative's Testimony)
20. On [REDACTED] [REDACTED] 2021, CHNCT denied the prior authorization request for a CT colonography and notified the Appellant. The notice states that CHNCT denied the service requested because "it does not meet generally accepted standards of care." Specifically, "the reason this request cannot be approved is because: you must have one of the following. – known disease in your large bowel that is causing a blockage, and the study will show the extent of the disease (staging) prior to surgery. – A clear reason for IV (intravenous) contrast to assess other organs in the body that are not in the large bowel [and] your records show that the same study or a test like it has been done for you. They also show the results of this test. The prior study showed your doctor what they needed to see in order to treat your condition. Repeat imaging is not supported without results of prior imaging that show a clear reason for it." (Exhibit 3: Notice of Action)
21. On [REDACTED] [REDACTED] 2021, the Appellant requested an administrative hearing to contest CHNCT's denial of the prior authorization request for the CT colonography. (Exhibit 4: Administrative Hearing Request)

22. On [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] 2021, and [REDACTED] [REDACTED] 2021, CHNCT requested additional medical information from the gastroenterologist supporting the prior authorization request for a CT colonography for the Appellant. Additional information includes the following: “documentation of known disease in the large bowel causing a blockage requiring the requested study to show the extent of disease (staging) prior to surgery; a clear reason for IV contrast to assess other organs in the body that are not in the large bowel; results of prior imaging showing the medical need for repeat imaging; and/or letter of medical necessity that indicates why this is medically necessary.” (Exhibit 6: Medical Record Request, Exhibit 7: Medical Record Request, and Exhibit 8: Medical Record Request)
23. On [REDACTED] [REDACTED] 2021, CHNCT received a duplicate copy of clinical information submitted with the prior authorization request which included: Gastroenterology Procedures/Colonoscopy [REDACTED] [REDACTED] 2021 Report, Office Clinic Notes [REDACTED] [REDACTED] 2021, and Surgical Pathology Report [REDACTED] [REDACTED] 2021. (Exhibit 9: Medical Records)
24. On [REDACTED] [REDACTED] 2021, CHNCT requested a clinical review of the prior authorization request for CT colonography. CHNCT submitted the following documents for review: Gastroenterology Procedures Colonoscopy [REDACTED] [REDACTED] 2021 Report, Computed Tomography [REDACTED] [REDACTED] 2021 Report, Lab View Report [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] 2021, and [REDACTED] [REDACTED] 2021, Office Clinic Notes [REDACTED] [REDACTED] 2021, and Surgical Pathology Report [REDACTED] [REDACTED] 2021. CHNCT writes, “Based on the information presented, is the denial of the CT colonography, diagnostic, including image post processing: with contrast material(s) including non-contrast images, if performed, upheld or overturned? If upheld, please provide rationale based on DSS definition of Medical Necessity provided below.” (Exhibit 10: Medical Review Request)
25. EviCore completed the review of the Appellant’s prior authorization request for CT colonography. EviCore upheld the denial of the prior authorization request for CT colonography. EviCore commented, “Given the colonoscopy and the CT abd/pelvis, the member has had imaging which shows no intraluminal or intra-peritoneal signs of cancer. He has no signs of symptoms that would suggest an occult malignancy as such, the denial of CT colonography is upheld. DSS does not meet generally accepted standards of care.” (Exhibit 11: Medical Review)
26. On [REDACTED] [REDACTED] 2021, 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 Colonography with contrast material requested by your provider 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 the information provided does not show the medical need for further diagnostic imaging with a CT colonography. “Since you are not having any signs or symptoms suggesting the need for further imaging and the results of prior imaging, including a colonoscopy and CT of abdomen and pelvis, did not show findings supporting the medical need for further diagnostic imaging, the request for a CT colonography is denied. The denial is based on Connecticut General Statute § 17b-259b(a)(1), as set forth in the Notice of Action that was already sent to you.” (Exhibit 12: English Determination Letter)

27. 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] [REDACTED] 2021. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2(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. State statute 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.

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. State statute provides as follows:

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. State statute provides as follows:

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. State regulation provides as follows:

For the purposes of sections 17b-262-512 through 17b-262-520 the following definitions shall apply:

“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)

“Radiology means any diagnostic and treatment service administered through the use of radiant energy.” Regs., Conn. State Agencies § 17b-262-513(19)

“HealthTrack Services means the services described in subsection (r) of section 1905 of the Social Security Act.” Regs., Conn. State Agencies § 17b-262-513(9)

“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)

“Interperiodic encounter means any medically necessary visit to a Connecticut 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)

“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)

8. “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
9. “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)]
10. “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)
11. State regulation provides as follows:

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)

12. “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)

13. State regulation provides as follows:

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)

14. CHNCT correctly determined the CT colonography as not medically necessary for the Appellant because the hearing record does not support further diagnostic imaging with a CT colonography. The Appellant’s lack of signs or symptoms of the presence of disease as noted on the [REDACTED] [REDACTED] 2021 clinic notes, the results of the [REDACTED] [REDACTED] 2021 initial colonoscopy as normal and biopsies as unremarkable, and review of the Appellant’s [REDACTED] [REDACTED] 2021 CT scan of the abdomen and pelvis do not support the medical need for further diagnostic imaging of the colon.

On [REDACTED] [REDACTED] 2021, CHNCT was correct to deny the prior authorization request for CT colonography because the CT colonography failed to meet the medical necessity and medically necessary criteria in accordance with state statutes and regulations.

DECISION

The Appellant’s appeal is denied.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Robin Goss, CHNCT, 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, 165 Capitol Avenue, 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.