

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

██████████ 2021
SIGNATURE CONFIRMATION

CASE ID # ██████████
CLIENT ID # 1 ██████████
HEARING ID # 176008

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) through its managed care administrator Community Health Network of Connecticut, Inc. (“CHNCT”), sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) partially denying her prior authorization request for laparoscopic sleeve gastrectomy.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the denial of her request for laparoscopic sleeve gastrectomy.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2021. The Hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

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
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's decision to deny the Appellant's prior authorization request for laparoscopic sleeve gastrectomy was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is ■ years old. (Exhibit 1: Prior authorization request, and Medical Records)
2. The Appellant is a Medicaid recipient with coverage through CHNCT. (Hearing Summary)
3. On ■ 2021, CHNCT received a prior authorization request from ■ Hospital to perform laparoscopic sleeve gastrectomy (weight loss surgery) ordered by Dr. ■. (Exhibit 1)
4. On ■ 2021, CHNCT received medical records from ■ Hospital including progress notes and Medical history from Dr. ■, ■, surgeon; ■, registered dietitian; Dr. T ■, ■, pulmonologist; and Dr. ■, cardiologist. (Exhibit 1)
5. Progress Notes from Dr. ■ and Dr. ■ indicate that the Appellant has a history of marijuana use and she stopped using marijuana in ■ 2021. The Appellant was scheduled for surgery on ■, 2021. (Exhibit 1, Hearing Summary, Exhibit 2: Medical Review)
6. On ■ ■ 2021, the Medical Reviewer reviewed the information submitted and denied the Request because the appellant has a history of marijuana use. To be considered medically necessary for a laparoscopic sleeve gastrectomy the member should not have a history of drug or alcohol use disorder. If the member has a history of drug or alcohol use, the member must be drug and alcohol-free for at least one year before the surgery (Exhibit 2, Hearing Summary)
7. On ■ 2021, CHNCT sent a notice of action to the Appellant. (Exhibit 3: Notice of Action)
8. On ■ 2021, the Appellant requested an administrative hearing. (Exhibit 4: Administrative Hearing Request)

9. On [REDACTED] 2021, CHNCT requested the Appellant's surgeon, dietician, pulmonologist, and cardiologist to provide additional information. No further information was received. (Exhibit 6, 7, 8, and 9: Medical Record Request)
10. On [REDACTED] [REDACTED] 2021, CHNCT sent the appeal for Medical Review. (Exhibit 13: Medical Review Request)
11. On [REDACTED] 2021, the medical review was completed, and denial was upheld. The medical reviewer concluded that the documentation provided shows that the patient was using marijuana in [REDACTED] 2021 and the surgery was scheduled for [REDACTED] 2021. Based on policy and procedures to be considered medically necessary for a laparoscopic sleeve gastrectomy the member should not have a history of drug or alcohol use disorder. If the member has a history of drug or alcohol use, the member must be drug and alcohol-free for at least one year before the surgery. Therefore, the denial was upheld. (Exhibit 13: Medical Review Request, Exhibit 2)
12. On [REDACTED] 2021, CHNCT sent the determination letter to the Appellant. (Exhibit 15: Determination 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. [Conn. Gen. Stat. §17b-2; Conn. Gen. Stat. §17b-262]
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)]

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. [Conn. Gen. Stat. 17b-259b (b)]

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)]

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)]

3. CHNCT has determined that inpatient admission to ██████████ Hospital to perform a laparoscopic sleeve gastrectomy is not medically necessary for the Appellant because the medical records do not show she has been substance-free for at least one year before the surgery.
4. CHNCT's decision to deny the Appellant's prior authorization request for laparoscopic sleeve gastrectomy because it is not medically necessary is correct.

DISCUSSION

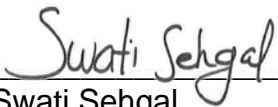
State regulations provide that health services covered under the Medicaid program must be considered medically necessary or required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition in order to attain or maintain the individual's achievable health and independent functioning provided such services are recommendations of a physician-specialty society based on an assessment of the individual and his or her medical condition. The Medical records submitted to the CHNCT do not show the medical necessity. For laparoscopic sleeve gastrectomy to be considered medically necessary, the patient should not have a history of drug or alcohol use disorder or must be drug or alcohol-free at least one year before surgery.

CHNCT representative informed the Appellant that she can request for this surgery after she has been substance-free for one year, which will be after [REDACTED] 2022.

CHNCT correctly denied the Appellant's prior authorization request for laparoscopic sleeve gastrectomy as the Appellant is not substance-free for at least one year before the surgery.

DECISION

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


Swati Sehgal
Hearing Officer

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 060105-3725.

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 06105-3725. 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.