STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

April 21, 2022
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # 187693

NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2021, the Community Health Network of Connecticut ("CHNCT") sent [redacted] (the "Appellant") a notice of action denying a prior authorization request for her child to participate in the Thrive by Spectrum Pediatrics Tube Weaning Program ("Thrive") as not being medically necessary.

On [redacted] 2021, the Appellant requested an administrative hearing to contest CHNCT's denial.

On [redacted] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2022.

On [redacted] 2022, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for [redacted] 2022.

On [redacted] 2022, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephonic conferencing.

The following individuals participated in the hearing:

[redacted] Appellant
[redacted] Thrive Representative
[redacted] Birth to Three Representative
Barbara McCoid, CHNCT's Representative
Christopher Turner, Hearing Officer

The hearing record was left open for one week for the submission of additional information. The information was received, and the record closed on [redacted] 2022.

STATEMENT OF THE ISSUE

The issue is whether CHNCT's decision to deny a prior authorization request for the Appellant's child to participate in the Thrive program is correct.

FINDINGS OF FACT

1. The child is [redacted] months old (DOB [redacted]) and was born at [redacted] weeks gestation. The child lives with his maternal aunt. (Exhibit 1: Prior Authorization request)

2. The child has a diagnosis of GI reflux with aspiration and bronchopulmonary dysplasia. The child is currently fed through a g-tube. (Exhibit 3: Medical review)

3. Dr. [redacted] is the child's primary medical provider ("pediatrician"). (Exhibit 1: Prior authorization request; Appellant's testimony)

4. [redacted] is the child's speech-language pathologist from [redacted]. (Exhibit 2: Additional request information)

5. The Thrive program as explained by [redacted] consists of a 10-day intensive session with two to four days of home instruction to help a child move from tube feeding to eating by mouth. This approach is followed up with six months of remote care. (Testimony)

6. The child currently receives services from the state's Birth to Three programs. In-home services are provided once a week and include physical therapy for one hour and one on one services for 45 minutes. (Record; Appellant's Exhibit A: Letter from [redacted]; Testimony)

7. On [redacted] 2021, CHNCT received from Thrive by Spectrum a request for prior authorization for the child to participate in Thrives' G-tube weaning program. (Exhibit 1)

8. On [redacted] 2021, CHNCT's medical director completed a review of the medical information submitted and determined that the request for the child's participation in the Thrive program was denied because the medical information submitted indicated the child does not present with developmental delay and is progressing appropriately in weaning from his G-tube. The child was approved for oral feeding on [redacted] 2021. The most recent information received concerning the child's feeding was from [redacted] 2021. There was no documentation received from the child's pediatrician or other provider involved in the child's care. The medical director recommends an increase in current services. (Exhibit 3)

9. On [redacted] 2021, CHNCT sent a notice of action to the Appellant denting the Appellant's request for the child to participate in the Thrive program. (Exhibit 4: Notice)

10. On [redacted] 2021, the Appellant requested an administrative hearing. (Exhibit 5: Hearing request)

11. On [redacted] 2022, CHNCT notified the child's pediatrician and [redacted] of the appeal and requested additional information. (Exhibits 8 and 9: Medical record requests)

12. On [redacted] 2022, CHNCT received additional information from [redacted]. (Exhibit 10: Medical records)

13. On [redacted], 2022, CHNCT received additional information from the child's pediatrician. (Exhibit 11: Medical records)

14. On [redacted] 2022, CHNCT completed an appeal review. CHNCT determined that the denial of authorization for participation in the Thrive program had been upheld after further review because the medical information provided does not support the medical necessity for participation in the Thrive program. The child is no longer aspirating with swallowing and is making progress taking pureed foods with a spoon. (Exhibit 12: Medical review request; Exhibit 13: Medical review)

15. On [redacted] 2022, [redacted] indicated she had no new information to add to the Appellant's appeal. (Record)

16. On [redacted] 2022, CHNCT notified the Appellant that the denial of prior authorization for participation in the Thrive program child had been upheld after further review. The letter indicated the request is not medically necessary at this time based on the child's improved condition. (Exhibit 14: Determination letter)

17. On [redacted] 2022, CHNCT completed an appeal review. CHNCT determined that the denial of authorization for the child's participation in the Thrive program had been upheld after further review since the medical information provided does not support the medical necessity for the child to participate in the Thrive program due to his improvement in a recent swallow study and the introduction of pureed foods from a spoon. (Exhibit 15: Determination)

18. On [redacted] 2022, CHNCT notified the Appellant that the previous denial of authorization for the child to participate in the Thrive program had been sustained after further review. The letter indicated the denial was based on an assessment of the individual and his or her medical condition. (Exhibit 16: CHNCT letter)

19. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") 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] 2021, with this decision due [redacted] 2022. However, the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension, or when the commissioner documents an administrative or other extenuating circumstance beyond the commissioner's control. In the present case, the Appellant was granted two extensions that lengthened the due date by [redacted] days, with this decision due no later than [redacted] 2022, since [redacted] 2022, is a [redacted]. (Hearing Record)

CONCLUSIONS OF LAW

1. Conn. Gen. Stat. § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.

   Conn. Gen. Stat. § 17b-261b (a) provides the Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department.

   Conn. Gen. Stat. § 17b-262 provides the Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.

   The Department has the authority under the statute to administer the HUSKY-A Medicaid program and make regulations for the same.

2. Regs., Conn. State Agencies § 17b-262-522 through § 17b-262-532, inclusive, set forth the Department of Social Services general requirements to which providers of Medical Assistance Program goods and services shall adhere to participate in, and receive payment from, the Connecticut Medical Assistance Program pursuant to section 17b-262 of the Connecticut General Statutes.

   Regs., Conn. State Agencies § 17b-262-523 provides for the following definitions: (2) **Border provider** means a provider located in a state bordering Connecticut, in an area that allows it to generally serve Connecticut residents, and that is enrolled as and treated as a Connecticut Medical Assistance Program provider. Such providers are certified, accredited, or licensed by the applicable agency in their state and are deemed border providers by the department on a case-by-case basis. (13) **"Medical Assistance Program"** means the medical 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. (14) **"Medical Assistance Program goods or services"** means medical care or items that are furnished to a client to meet a medical necessity in accordance with applicable statutes or regulations that govern the Medical Assistance Program. (17) "**Out-of-state provider"** means a provider who is licensed, certified, or accredited in a state other than Connecticut; has a business address outside of Connecticut; and does not meet

the definition of "border provider". (20) "**Prior authorization"** means approval for the provision of a service or delivery of goods from the department before the provider actually provides the service or delivers the goods.

Regs., Conn. State Agencies § 17b-262-527 provides the department shall review the medical appropriateness and medical necessity of medical goods and services provided to Medical Assistance Program clients both before and after making payment for such goods and services.

The Department/CHNCT correctly determined a prior authorization request for approval to participate in Thrive program must meet the definition of medically necessary or medical necessity.

3. Conn. Gen. Stat. § 17b-259b (a) provides for the 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 (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.

   Regs., Conn. State Agencies § 17b-262-528 (a) provides that 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.

Regs., Conn. State Agencies § 17b-262-528 (d) provides that 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 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-262-531 that payment, by the department, to all providers shall be limited to medically appropriate and medically necessary goods or services furnished to Medical Assistance Program clients.

Regs., Conn. State Agencies § 17b-262-531 provides (g) the department shall not pay for any procedures, goods, or services of an unproven, educational, social, research, experimental, or cosmetic nature; for any diagnostic, therapeutic, or treatment goods or services more than those deemed medically necessary and medically appropriate by the department to treat the client's condition; or for services not directly related to the client's diagnosis, symptoms, or medical history.

CHNCT was correct to deny prior authorization for the child's participation in the Thrive program following state statutes and regulations because it is not medically necessary based on an assessment of the child's medical condition.

DISCUSSION

The Appellant expressed concern that the child's failure to thrive/wean may have long-term effects on the child's psychological and emotional development and believes the approval of the Thrive program is the child's proper course of treatment. However, no new evidence of a substantial nature was provided to indicate this to be true.

The Appellant's prior authorization request for the child to participate in Thrive tube weaning program does not meet the medical necessity criteria required for approval.

DECISION

The Appellant's appeal is denied.

Christopher Turner
Hearing Officer

Cc: Fatmata Williams, DSS Central Office
appeals@chnct.org

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, law, or 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 requested 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 the 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 the 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 if 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, CT06105-3725. A copy of the petition must also be served to 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 under §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.