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

[redacted] 2022
Signature Confirmation
Request # [redacted]

Client ID [redacted]
Case ID [redacted]

NOTICE OF CORRECTED DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2022, Community Health Network of Connecticut ("CHNCT") sent [redacted] (the "Appellant") a Notice of Action ("NOA) denying her provider's request for authorization for a panniculectomy and abdominoplasty.

On [redacted] 2022, the Appellant requested an administrative hearing to contest the CHNCT's decision to deny the prior authorization request.

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, the Appellant requested a continuance which OLCRAH granted.

On [redacted] 2022, the OLCRAH issued a notice scheduling the administrative hearing for [redacted] 2022.

On [redacted] 2022, 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 by telephone at the Appellant's request.

The following individuals called in for the hearing:

[redacted], Appellant
Barbara McCoid, RN, CHNCT Representative
Lisa Nyren, Fair Hearing Officer

A typographical error was found on page 16 incorrectly listing the date of the CHNCT notice of denial as [redacted] 2021. This date has been corrected to [redacted] 2022. No further changes were made. This decision replaces the original decision issued on [redacted] 2022.

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's [redacted] 2022 denial of prior authorization through the Medicaid program for a panniculectomy and abdominoplasty 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. (Exhibit 14: Medical Review Request)

3. The Appellant was diagnosed with morbid obesity due to excess calories with her maximum weight at [redacted] pounds, gastroesophageal reflux disease (GERD), iron deficiency anemia, and mild intermittent asthma without complication. (Exhibit 1: Prior Authorization Request)

4. On [redacted] 2021, the Appellant underwent a laparoscopic gastric sleeve with hiatal hernia repair ("surgery"), a surgical weight loss procedure performed by [redacted], bariatric surgeon. The Appellant weighed in at [redacted] pounds the day of surgery. (Exhibit 1: Prior Authorization Request)

5. The Appellant is followed by [redacted], APRN (the "APRN"), bariatric surgery specialist, after surgery. (Appellant's Testimony)

6. On [redacted] 2021, the Appellant met with the APRN due to an irritation rash around her incisions post-surgery. Surgical glue removed and prescription cream ordered to address the Appellant's rash. (Exhibit 1: Prior Authorization Request)

7. On [redacted] 2021, the Appellant met with the APRN for a 2-week post operative visit marking a [redacted] pound weight loss since surgery weighing in at [redacted] pounds, body mass index ("BMI") BMI [redacted] . The rash around the incision has resolved. The Appellant continues to

follow the bariatric post-operative diet and exercise plans. The APRN recommends the next scheduled visit in six-weeks. (Exhibit 1: Prior Authorization Request)

8. On [redacted] 2021, the Appellant met with [redacted] PA ("PA") at the APRN's office reporting struggling with excess skin on her abdomen, thighs, back and breasts reporting "limited activity due to discomfort and excessive sweating, painful, itching recurrent rashes and difficulty with physical movement, including exercise." The Appellant weighed in at [redacted] pounds, a [redacted] pound weight loss, BMI [redacted] The APRN commented, "Patient with notable handing excess skin on her abdomen and thighs, no rash currently" and recommends follow-up in three months. (Exhibit 1: Prior Authorization Request)

9. On [redacted] 2021, the Appellant met with the APRN reporting a recurrent itchy rash limiting her activities. The Appellant reports temporary relief with A&D Ointment and coco butter. The APRN noted, skin is "positive for rash (recurrent to abdomen and thighs). Negative for wound." The APRN recommends the Appellant seek a dermatologist to address recurrent rash symptoms. The Appellant weighed in at [redacted] pounds, a [redacted] pound weight loss since last visit on [redacted] 2021, BMI [redacted] Three month follow-up recommended by APRN. (Exhibit 1: Prior Authorization Request)

10. On [redacted] 2022, the Appellant met with the APRN via telemedicine after contracting COVID-19. The APRN notes skin is positive for rash. The Appellant reports weight as [redacted] pounds, a [redacted] weight loss, BMI [redacted]. Three month follow-up recommended by APRN. (Exhibit 1: Prior Authorization)

11. On [redacted] 2022, the Appellant met with [redacted] ("dermatologist"), dermatology reporting facial acne worsening and skin irritation on abdomen area reporting itching around incision sites on her abdomen. Facial acne treated with over the counter wash and moisturizer and prescriptions: Spironolactone and Duac. The dermatologist reports "minimal erythema and scale there today and no dermatographism." Dermatologist recommends Zyrtec daily to decrease the pruritus/rash as strongest topical steroid was prescribed without relief. Appellant advised to call when rash reoccurs and follow-up in 3 months for facial acne. (Exhibit 1: Prior Authorization Request)

12. The Appellant's primary diagnosis is excess skin. (Exhibit 1: Prior Authorization Request)

13. The Appellant complains of recurrent itchy rash on the abdomen, hives, and recurrent yeast buildup causing odors in the folds of her abdomen

after weight loss surgery. Prescription creams and over the counter creams have offered no long-term relief. To help with the sagging skin due to weight loss, the Appellant wears compression garments as recommended, however garments cause the Appellant to sweat resulting in the rash, hives, yeast, and odor. On at least one occasion, the itching resulted in leaving the salon where she works as a nail technician. The Appellant is seeking relief from the itching and pain caused from rash through surgery. (Appellant's Testimony and Exhibit 9: Administrative Hearing Request)

14. On [redacted] 2022, the Appellant met with [redacted] ("plastic surgeon") of [redacted] to discuss care options which include a panniculectomy and abdominoplasty. (Exhibit 1: Prior Authorization Request)

15. On [redacted] 2022, CHNCT received a prior authorization request from the plastic surgeon for a panniculectomy and standard abdominoplasty noting a diagnosis of excess abdominal skin. The plastic surgeon included the following documents with the request: [redacted] 2022 medical necessity letter from the plastic surgeon and progress notes, [redacted] 2021 APRN progress notes, [redacted] 2021 PA progress notes, [redacted] 2021 APRN progress notes, [redacted] 2022 APRN progress notes, [redacted] 2022 dermatologist progress notes, and two photographs of the Appellant's abdomen. (Exhibit 1: Prior Authorization Request)

16. A panniculectomy is a surgical procedure to remove excess lower abdominal hanging fat and skin. A panniculectomy may be performed with or without an abdominoplasty. Medicaid covers a panniculectomy if it is medically necessary. To be considered medically necessary, the lower abdominal skin must hang below the pubic bone. (Exhibit 1: Prior Authorization Request, Exhibit 14: Medical Review Request, and CHNCT Representative's Testimony)

17. A abdominoplasty is a surgical procedure performed to tighten the abdominal wall muscles, remove excess skin and fat, and provides contouring to enhance the waistline. A abdominoplasty sometimes referred to as a "tummy tuck" is considered cosmetic surgery and not covered by Medicaid. (CHNCT Representative's Testimony)

18. On [redacted] 2022, CHNCT reviewed the prior authorization request for the panniculectomy and abdominoplasty along with the following supporting documents: [redacted] 2022 medical necessity letter from the plastic surgeon and progress notes, [redacted] 2021 APRN progress notes, [redacted] 2021 PA progress notes, [redacted] 2021 APRN progress notes, [redacted] 2022 APRN progress notes, [redacted] 2022 dermatologist progress notes, and two photographs of the Appellant's abdomen. CHNCT

determined the panniculectomy as not medically necessary because the "photos do not indicate that the pannus extends below the level of pubic symphysis." CHNCT determined the abdominoplasty as not medically necessary because "there are no significant functional issues in records that would make this procedure reconstructive." Abdominoplasty is considered a cosmetic procedure. The medical documentation submitted by the APRN, PA, and dermatologist did not support severe on-going inflammation and scarring. CHNCT determined the procedures as not medically necessary. CHNCT denied the plastic surgeon's prior authorization request for a panniculectomy and abdominoplasty listing the reason for denial as "not based on assessment of [member] and their condition." (Exhibit 2: Medical Review and Exhibit 15: Medical Review)

19. On [redacted] 2022, CHNCT issued a Notice of Action for Denied Services or Goods to the Appellant informing her that the plastic surgeon's prior authorization request for a panniculectomy and abdominoplasty has been denied. CHNCT listed the reason for denial as not medically necessary because "it is not based upon an assessment of your medical condition." CHNCT writes in part, "The information submitted by your provider does not show the medical need for this request. A panniculectomy could be considered medically needed if the pannus hangs below your pubic bone. Your medical record does not show that your pannus hangs below your pubic bone. An abdominoplasty could be considered medically needed if it was intended to improve or restore a functional issue. An example of a function issue is pain. The medical record does not show that this procedure is intended to improve or restore a functional issue." (Exhibit 3: Notice of Action)

20. On [redacted] 2022, the Appellant filed an appeal with CHNCT to reconsider their decision to deny the prior authorization request for a panniculectomy and abdominoplasty. (Exhibit 4: Verbal Appeal, Exhibit 5: Acknowledgement Letter, Exhibits 6 – 8: Medical Record Requests)

21. On [redacted] 2022, CHNCT issued a notice to the Appellant confirming receipt of her appeal request. CHNCT notified the Appellant to submit any additional medical documentation supporting her appeal to CHNCT. (Exhibit 5: Acknowledgement Letter)

22. On [redacted] 2022, CHNCT requested additional medical information from the plastic surgeon, the APRN, and the dermatologist supporting the prior authorization request for a panniculectomy and abdominoplasty for the Appellant. Additional information includes: "documentation showing member has a greater than, or equal to Grade 2 panniculus or that the panniculus extends below the level of the symphysis pubis; documentation addressing the specific physical functional impairment that an abdominoplasty is intended to improve or restore, including photographs if

available; and/or Letter of Medical Necessity supporting the medical need for a panniculectomy and an abdominoplasty for this member." (Exhibits 6 – 8: Medical Record Requests)

23. On [redacted] 2022, the Appellant met with the dermatologist as follow-up with her facial acne and abdominal rash. The dermatologist notes acne significantly improved and recommends continuing her treatment plan. The dermatologist records slight hyperpigmentation on the abdomen, no erythema or scale, no urticaria present. The Appellant reports she did not try taking Zyrtec daily as previously recommended in [redacted] Dermatologist recommends Zyrtec daily and a topical cream to apply to abdomen twice daily for four weeks. Follow-up for acne scheduled for one year. (Exhibit 11: Medical Records)

24. On [redacted] 2022, the Appellant met with the APRN for a follow-up exam post bariatric surgery. The Appellant reports increase in stress due to recurrent rash with pain and discomfort to the abdomen and thighs. The Appellant skin is positive for rash, recurrent to abdomen and bilateral thighs. The APRN provided the Appellant with a list of names/numbers for therapy to address increase stress, recommends decreasing stress eating, self-care, and healthy activities. The Appellant weighed in at [redacted], a loss of [redacted] since last telehealth visit in [redacted]. (Exhibit 11: Medical Records)

25. On [redacted] 2022, the Appellant requested an administrative hearing with the Department to contest CHNCT's denial of the prior authorization request for the panniculectomy and abdominoplasty. (Exhibit 9: Administrative Hearing Request)

26. On [redacted] 2022, CHNCT received additional medical documentation from the plastic surgeon's office which included [redacted] 2022 progress notes from the dermatologist and [redacted] 2022 progress notes from the APRN. (Exhibit 11: Medical Records)

27. On [redacted] 2022, CHNCT submitted a second request for additional medical documentation to the APRN supporting the Appellant's need for a panniculectomy and abdominoplasty. (Exhibit 12: Medical Record Request)

28. On [redacted] 2022, CHNCT received a duplicate copy of the dermatologist's [redacted] 2022 Appellant progress notes and a duplicate copy of the [redacted] 2022 dermatologist's Appellant progress notes, submitted by the plastic surgeon, from the dermatologist's office. (Exhibit 13: Medical Records)

29. On [redacted] 2022, CHNCT requested a clinical review of the prior authorization request for a panniculectomy and abdominoplasty from [redacted] ("Medical Review Organization"). CHNCT submitted the following documents for review: Outpatient prior Authorization Form, [redacted] 2022 Letter of Medical Necessity from the plastic surgeon, [redacted] 2022 plastic surgeon progress notes, [redacted] 2021, [redacted] 2021, [redacted] 2022, and [redacted] 2022 APRN progress notes, [redacted] 2021 PA progress notes, [redacted] 2022 and [redacted] 2022 dermatologist progress note, and two color photos of the Appellant. CHNCT writes, "Based on the information presented, is the denial of authorization for a panniculectomy and an abdominoplasty upheld or overturned? If upheld, please provide rationale based on DSS Definition of Medical Necessity provided below." (Exhibit 14: Medical Review Request)

30. The Department's Provider Policies and Procedures state a panniculectomy may be considered reconstructive surgery using InterQual Criteria along with the Department's definition of medical necessity. (Exhibit 14: Medical Review Request)

31. The Department's Provider Policies and Procedures state a abdominoplasty is considered cosmetic surgery when the primary purpose is to preserve or improve appearance in the absence of a physical functional impairment. (Exhibit 14: Medical Review Request)

32. InterQual Criteria is a screening tool to assist in the determination whether the proposed medical procedure(s), specifically abdominal panniculectomy, are clinically appropriate. These criteria do not include abdominoplasty. InterQual Criteria for an abdominal panniculectomy are as follows:

    1. Choose One:
        A. Post bariatric procedure and ≥ Grade 2* panniculus or panniculus extends below the level of the symphysis pubis
        B. Massive weight loss without bariatric surgery and ≥ Grade 2* panniculus or panniculus extends below the level of symphysis pubis
        C. No massive or significant weight loss or bariatric surgery and ≥ Grade 2* panniculus or panniculus extends below the level of the symphysis pubis
        D. To be performed in conjunction with abdominal or gynecological surgery
        E. Other clinical information (add comment)
    2. Choose all that apply:
        A. ≥ 1 year since bariatric surgery
        B. Body mass index (BMI) < 30 kg/m^2

C. Weight loss ≥ 100 lbs (45.36 kg)
D. Other clinical information (add comment)

3. Weight stable for ≥ 6 months
   A. Yes
   B. No
4. Choose all that apply:
   A. Panniculus causes limitations in ambulation or physical activity
   B. Panniculus interferes with ADLs
   C. Nonhealing ulceration under panniculus
   D. Chronic maceration or necrosis of overhanging skin folds
   E. Recurrent or persistent skin infection under panniculus
   F. Intertriginous dermatitis or cellulitis or panniculitis
   G. Other clinical information (add comment)
5. Choose all that apply:
   A. Local or systemic antibiotic treatment ≥ 12 weeks
   B. Topical or systemic corticosteroid treatment ≥ 12 weeks
   C. Topical antifungal medication treatment ≥ 12 weeks
   D. Other clinical information (add comment)
6. Continued symptoms or findings after treatment
   A. Yes
   B. No
7. Choose all that apply
   A. Body mass index (BMI) < 30 kg/m^2
   B. Weight loss ≥ 100 lbs (45.36 kg/m^2)
   C. Other clinical information (add comment)

*The severity of a panniculus is graded as:
Grade 1: Panniculus covers hairline and mons pubis but not the genitals
Grade 2: Panniculus covers genitals and upper thigh crease
Grade 3: Panniculus covers upper thigh
Grade 4: Panniculus covers mid-thigh
Grade 5: Panniculus covers knees and below

"A Panniculectomy would only be appropriate for resection of a large panniculus which, for the purposes of these criteria, is defined as a panniculus which extends below the level of the symphysis pubis or at least Grade 2."

(Exhibit 14: Medical Review Request and CHNCT Representative's Testimony)

33. Based on the Department's definition of medical necessity, the Department's coverage policies, and InterQual policy guidelines, the Medical Review Organization upheld the denial of the prior authorization request for a panniculectomy and abdominoplasty. The Medical Review Organization states in pertinent part, "the requested panniculectomy

and/or abdominoplasty are not considered medically necessary for this member in accordance with the DSS coverage policies and the DSS Definition of Medical Necessity." Using InterQual Criteria for an abdominal panniculus, the Medical Review Organization cites, "no other options lead to the requested service." Abdominoplasty is considered cosmetic surgery under Department coverage policies and not covered under the Husky Health Program. The Medical Review Organization found the medical documentation and photographs fail to demonstrate a panniculus that extends below the level of the symphysis pubis and fail to establish a chronic skin irritation or infection. The medical documentation does not support a greater than or equal grade 2 panniculus. The Medical Review Organization finds the supplied documentation supports a planned abdominoplasty without a physical functional impairment and therefore considered a cosmetic procedure. (Exhibit 14: Medical Review Request)

34. On [redacted] 2022, 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 panniculectomy and abdominoplasty 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 excess lower abdominal skin must hang below your pubic bone to approve a panniculectomy. The information provided does not show the pannus hangs below the pubic bone and therefore it is denied as not being medically necessary. An abdominoplasty is considered a cosmetic procedure unless there is documented functional issue that the procedure is intended to improve or restore. The medical records provided do not document clinical evidence of persistent or sever inflammation or evidence of a functional impairment. "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 16: Determination Letter)

35. 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] 2022. However, the hearing which was originally scheduled for [redacted] 2022 was rescheduled at the request of the Appellant causing a [redacted]-day delay. Because this [redacted]-day delay resulted from the Appellant's request, this decision is due not later than [redacted] 2022, and therefore timely.

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. “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-261b

3. 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)

   Section 17b-262-527 of the Regulations of Connecticut State Agencies (“Regs., Conn. State Agencies”) provides as follows:

   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.

4. “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)

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. State regulation provides as follows:

   Sections 17b-262-337 to 17b-262-349, inclusive, of the Regulations of Connecticut State Agencies, set forth the Department of Social Services requirements for payment of accepted methods of treatment performed by or under the personal supervision of licensed physicians for clients who are determined eligible to receive services under Connecticut's Medicaid Program pursuant to section 17b-261 of the Connecticut General Statutes.

   Regs., Conn. State Agencies § 17b-262-337

7. State regulation provides as follows:

   For the purposes of sections 17b-262-337 to 17b-262-349, inclusive, of the Regulations of Connecticut State Agencies, the following definitions shall apply:

   "*Billing provider* means a physician, physician group or other entity enrolled in Medicaid that bills the department for physicians' services." Regs., Conn. State Agencies § 17b-262-338(6)

   "ICD means the International Classification of Diseases established by the World Health Organization or such other disease classification system that the department currently requires providers to use when submitting Medicaid claims." Regs., Conn. State Agencies § 17b-262-338(23)

   "Medical necessity or medically necessary has the same meaning as provide in section 17b-259b of the Connecticut General Statutes." Regs., Conn. State Agencies § 17b-262-338(33)

Physicians' services mean services that are billed by the billing provider and are provided:

1. By an individual physician who is also the billing provider;
2. By a physician who is employed by or affiliated with the billing provider; or
3. By an AHP working under the personal supervision of a physician who is employed by or affiliated with the billing provider;

Regs., Conn. State Agencies § 17b-262-338(46)

"*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-262-338(47)

8. "Payment to a billing provider for physicians' services billed by the billing provider shall be available on behalf of clients who have a need for such services, provided such services are medically necessary, subject to the conditions and limitations which apply to these services." Regs., Conn. State Agencies § 17b-262-340

9. State regulation provides as follows:

   The Department shall pay billing providers for the following physicians' services:

   Those procedures that are medically necessary to treat the client's condition;

   Physicians' services provided in an office, a general hospital, the client's home, a chronic disease hospital, nursing facility, ICF/MR or other medical care facility;

   Surgical services necessary to treat morbid obesity as defined by the ICD that causes or aggravates another medical illness, including illnesses of the endocrine system or the cardio-pulmonary system, or physical trauma associated with the orthopedic system.

   Regs., Conn. State Agencies § 17b-262-341(1), (2), & (9)

   State regulation provides as follows:

   The department shall not pay for the following goods or services or goods or services related to the following:

Cosmetic surgery;

Services to treat obesity other than those described in section 17b-262-341(9) of the Regulations of Connecticut State Agencies;

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.

Regs., Conn. State Agencies § 17b-262-342(4), (11), & (12)

10. State regulation provides as follows:

Payment is available to billing providers for an initial office visit and continuing services that are medically necessary provides that:

a. The services are within the provider's scope of practice; and
b. The provider documents the services in the client's medical record.

Regs., Conn. State Agencies § 17b-262-343

11. State regulation provides as follows:

Prior authorization, on forms and in the manner specified by the department, is required in order for payment to be available for the following physicians' services. Prior authorization is also required for services designated by the department and published on its website or by other means accessible to providers.

Except in emergency situations, the provider shall receive prior authorization before rendering services.

In order to receive payment from the department, a billing 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 guarantee payment unless all other requirements for payment are met.

Regs., Conn. State Agencies§ 17b-262-344(f) & (h)

12. State regulation provides as follows:

Sections 17b-262-522 through 17b-262-532, inclusive, of the Regulations of Connecticut State Agencies set forth the Department of Social Services general requirements to which providers of Medical Assistance Program goods and services shall adhere in order 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-262-522

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.

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

“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-262-523(20)

“Medical necessity or medically necessary" means health care provided to correct or diminish the adverse effects of a medical condition or mental illness; assist an individual in attaining or maintaining an optimal level of health; diagnose a condition; or prevent a medical condition from occurring” Regs., Conn. State Agencies § 17b-262-523(15)

Type and specialty mean the department's categorization of Medical Assistance Program providers according to the type and specialty of the goods or services furnished by the provider.” Regs., Conn. State Agencies § 17b-262-523(29)

State regulation provides as follows:

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-262-528(d)

"Coverable Medical Assistance Program goods or services requiring prior authorization may be so identified on the department's applicable fee schedule or identified in regulation. Regs., Conn. State Agencies § 17b-262-528(e)

"Coverable Medical Assistance Program good or service" means any good or service which is payable by the Medical Assistance Program under its regulations." 17b-262-523(7)

State regulation provides as follows:

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. The following payment limitations shall also apply: 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 in excess of 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.

Regs., Conn. State Agencies § 17b-262-531(g)

14. 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)

15. CHNCT correctly determined the panniculectomy as not medically necessary for the Appellant. The hearing record failed to establish the pannus hangs below the pubic bone, failed to establish a chronic and persistent rash that has not responded to non-surgical treatments, and failed to establish a functional impairment which interferes with the patient's everyday activities.

Medical reports and photos provided by the plastic surgeon do not support a pannus which hangs below the pubic bone.

Although the medical documentation from the APRN notes a rash post-surgery, the APRN recommended the Appellant seek a dermatologist for treatment. The medical documentation from the dermatologist does not support a chronic and persistent rash or infections which have not responded to treatment. On [redacted] 2022, the dermatologist reports "minimal erythema and scale there today and no dermatographism" advising the Appellant to contact their office should the rash reoccur. On [redacted] 2022, the dermatologist records slight hyperpigmentation on the abdomen, no erythema or scale, no urticaria present and recommends follow-up in one year for acne treatment for which the dermatologist continues to treat.

CHNCT correctly determined the abdominoplasty as not medically necessary for the Appellant because an abdominoplasty is considered cosmetic surgery unless there is a functional impairment for which the abdominoplasty would correct. As the hearing record failed to establish a functional impairment, the abdominoplasty is considered cosmetic surgery and cosmetic surgery is not paid for by the Department under Medicaid.

On [redacted] 2022, CHNCT was correct to deny the prior authorization request for a panniculectomy and an abdominoplasty because the procedures failed to meet the medical necessity and medically necessary criteria in accordance with state statutes and regulations.

DISCUSSION

The Appellant reports she has limited her exercise routine because sweating can cause a rash. The Appellant reports the rashes have caused increased anxiety and stress. The Appellant reports she left work on one occasion due to the painful and itching rash. However, the medical documentation does not support a persistent and chronic rash, hygiene issues, ulcers, infections, or other issues related to the hanging skin which limits her everyday activities of daily living.

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.