

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

[REDACTED] 2023
Signature Confirmation

Client ID [REDACTED]
Case ID [REDACTED]
Request # 207894

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2022, Community Health Network of Connecticut ("CHNCT") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying a request for prior authorization for specialty contact lenses as not medically necessary for the reason it is not based upon the assessment of your specific medical condition.

On [REDACTED] 2022, the Appellant requested an administrative hearing to contest the CHNCT's decision to deny such benefits.

On [REDACTED] 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 2023.

On [REDACTED] 2023, the Appellant requested a continuance which OLCRAH granted.

On [REDACTED] 2023, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2023.

On [REDACTED] 2023, 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 via teleconference at the Appellant's request.

The following individuals called in for the hearing:

████████ Appellant
Toni Moura, RN, CHNCT Representative
Lisa Nyren, Fair Hearing Officer

The hearing record remained open for the submission of additional evidence from the Appellant and a review of such evidence by CHNCT. On ██████ 2023, the Appellant submitted additional evidence to OLCRAH and CHNCT. On ██████ 2023, CHNCT submitted their reconsideration review results to OLCRAH and the Appellant. On ██████ 2023, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's ██████ 2022 denial of prior authorization through the Medicaid program for scleral lenses as not medically necessary, was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is a participant in the Medicaid under the Husky D program as administered by the Department of Social Services (the "Department"). (Hearing Record)
2. CHNCT is the Department's contractor for reviewing medical requests for prior authorization under the Husky programs, which includes vision covered services. (Hearing Record)
3. The Appellant is age ██████ born on ██████. (Exhibit 1: Prior Authorization Request)
4. The Appellant has the following diagnosis
 - severe degenerative myopia - nearsightedness
 - nuclear sclerosis – hardening and cloudiness of the eye
 - astigmatism – curve in your eye
 - presbyopia – farsightedness
 - dry atrophic perifoveal – dry eyes
 - amblyopia – different focus in each eye(Hearing Record)
5. The Appellant began wearing eyeglasses at the age of ██████ years. The Appellant has worn soft specialty contact lenses for ██████ years made by

██████████; however such contact lenses are no longer available. (Appellant's Testimony)

6. The Appellant wears her contact lenses when working and driving. However, due to the decline in her vision and the unavailability of specialty soft contact lenses, she is not able to drive safely. Without contact lenses, her peripheral vision is limited. When not in contacts, the Appellant wears eyeglasses. The Appellant wears contacts daily, 8-12 hours daily. (Appellant's Testimony and Exhibit 1: Prior Authorization)
7. The Appellant currently works from home as an accounts receivable clerk after having worked as a tax accountant. The Appellant left employment as a tax accountant because she could no longer work the long hours and keep up with the reading and research required in such a position due to her poor eyesight. (Appellant's Testimony)
8. █████, O.D. (the "Ophthalmologist"), the Appellant's eye doctor, referred the Appellant to █████ O.D. (the "Specialist"), a specialist in sclera contact lenses because she thought the Appellant would be a good candidate for such lenses since the Appellant's vision declined and the limited improvement gained while wearing her soft contact lenses and eyeglasses. (Appellant Testimony and Exhibit 1: Prior Authorization Request, and Exhibit 11: Letter of Medical Necessity)
9. On █████ 2022, the Appellant met with the Specialist for an initial fitting of sclera lenses. Measurements were taken and sclera lenses were ordered for trial. The Appellant's visual acuity with soft contact lenses using the Snellen Eye Chart measured 20/40 in her right eye and 20/40 in her left eye. (Exhibit 1: Prior Authorization Request and Exhibit 9: Medical Records)
10. On █████ 2022, the Appellant met with the Specialist for sclera lenses trial fitting, handling and training. Visual acuity with soft contact lenses measured 20/50 in her right eye and 20/50 in her left eye. The Appellant instructed to build wearing time with sclera lenses. The Appellant discharged with sclera trial lenses and scheduled to return next month. The Specialist ordered new sclera lenses with adjustments based upon Appellant's visit with the Specialist. New adjusted scleral lenses to be mailed to Appellant. (Exhibit 9: Medical Records)
11. On █████ 2022, CHNCT received a prior authorization request from the Specialist requesting approval on scleral lenses for the Appellant for a diagnosis of degenerative myopia with other maculopathy and nuclear sclerosis of both eyes. (Exhibit 1: Prior Authorization Request)

12. On [REDACTED] 2022, CHNCT Medical Reviewer evaluated the prior authorization request for scleral lenses. The Medical Reviewer's medical specialty is emergency medicine. The Medical Reviewer denied the prior authorization request as not medically necessary for the reason not based on assessment of member and their condition. The Medical Reviewer cited Department policy, "specialty contact lenses are considered medically necessary for the diagnosis of: aphakia, congenital aphakia, keratoconus, other congenital corneal malformations, corneal transplant status or anisometropia." (Exhibit 2: Medical Review)
13. On [REDACTED] 2022, CHNCT issued a Notice of Action to the Appellant. The notice stated CHNCT denied the Specialist's request for authorization of scleral lenses as not medically necessary because "it is not based upon the assessment of your specific medical condition." CHNCT writes, The type of specialty contact lenses that were asked for are typically used to treat the following eye conditions: aphakia, keratoconus, a deformity of the cornea, or anisometropia or considered medically needed if you are waiting for a corneal transplant. (Exhibit 3: Notice of Action)
14. On [REDACTED] 2022, the Appellant met with the Specialist to discuss trial with scleral lenses. The Appellant received adjusted scleral lenses but was not able to insert the lenses properly and therefore did not wear them. The Appellant decided to return the adjusted scleral lenses and forego the trial until insurance coverage is approved. Visual acuity with soft contact lenses measured 20/50 in her right eye and 20/70 in her left eye. (Exhibit 9: Medical Records)
15. On [REDACTED] 2022, the Appellant requested an administrative hearing to contest CHNCT's denial of the request for authorization of scleral lenses. (Exhibit 4: Administrative Hearing Request)
16. On [REDACTED] 2023, CHNCT issued the Appellant a notice confirming receipt of her hearing request and instructing her to send any additional information regarding the appeal directly to CHNCT. (Exhibit 5: Acknowledgement Letter)
17. On [REDACTED] 2023, CHNCT issued the Specialist and the Ophthalmologist a notice informing them of the Appellant's appeal and requesting additional information to include clinical documentation of aphakia, congenital aphakia, keratoconus, other congenital corneal malformations, corneal transplant status or anisometropia and/or a letter of medical necessity indicating the need for a specific type of contact lenses. (Exhibit 6 and 7: Medical Records Request)

18. On [REDACTED] 2023, CHNCT received medical records from the Specialist's office for office visits on [REDACTED] 2022, [REDACTED] 2022, and [REDACTED] 2022. Refer to Finding of Facts ("FOF") #9, 10, & 14. (Exhibit 9: Medical Records)
19. On [REDACTED] 2023, CHNCT received a letter of medical necessity from the Specialist. The Specialist writes, "It is medically necessary for her to use scleral contact lenses given her severe myopia and inability to see well in glasses or soft custom contact lenses." (Exhibit 10: Letter of Medical Necessity)
20. On [REDACTED] 2023, CHNCT received a letter of medical necessity from the Ophthalmologist. The Ophthalmologist writes, "Her best visual acuity with glasses is only 20/60 in her right eye and 20/40 in her left eye. However with the specialty contact lenses, her visual acuity is 20/30 in her right eye and 20/25 in her left eye. Please consider her contact lenses as medically necessary as she see better with contact lenses because of her high Rx." (Exhibit 11: Letter of Medical Necessity)
21. On [REDACTED] 2023, CHNCT submitted a referral to Network Medical Review Co. Ltd. ("NMR") to complete a medical review of the Appellant's appeal and render a decision as to whether or not scleral lenses are medically necessary for the Appellant. (Exhibit 12: Medical Review Request)
22. CHNCT submits a request to NMR for review when a member requests an appeal of CHNCT's denial of medical services or equipment, and a specialty peer review is needed. Because CHNCT does not have an ophthalmologist on staff to complete the appeal review, CHNCT referred the appeal review to NMR instructing NMR to complete an evaluation of the medical record by an ophthalmologist to determine if the medical service/equipment meets the criteria for medical coverage under Medicaid. (CHNCT Testimony and Exhibit 12: Medical Review Request)
23. On [REDACTED] 2023, CHNCT received the results of the NMR appeal review which was completed by physician who is Board Certified in Ophthalmology. The NMR physician upheld CHNCT's denial of the prior authorization request for scleral lenses citing scleral lenses do not meet the plan criteria and not medically necessary because there is a lack of peer-reviewed literature indicating scleral lenses improve vision with high myopia. (Exhibit 12: Medical Review Request)
24. The January 1, 2012 Husky Health Benefits and Prior Authorization Grid (the "Grid") provides a general description of medical coverage criteria for Vision Services for Husky Health A, B, C, and D members. Under Husky D, the Grid states "Contact lenses are covered for certain diagnoses

including but not limited to unilateral aphakia, keratoconus, corneal transplant, high anisometropia." (Exhibit 12: Medical Review Request)

25. On [REDACTED] 2023, a CHNCT Medical Reviewer evaluated the appeal review completed by NMR. The Medical Reviewer's medical specialty is pediatric medicine. The Medical Reviewer upheld the original denial of the prior authorization request for scleral lenses noting the Appellant's diagnoses does not meet the criteria for approval under the Husky Vision Benefit Plan for approval. Refer to FOF # 24. (Exhibit 13: Medical Review)
26. On [REDACTED] 2023, CHNCT issued the Appellant a notice informing her that her appeal of the denial of authorization for specialty contact lenses was processed and CHNCT's denial was upheld. CHNCT determined the medical records provided for review does not support the medical necessity for specialty contact lenses. Specialty contact lenses may be considered medically necessary if the Appellant's diagnosis includes at least one of the following conditions: aphakia, keratoconus, deformity of the cornea, anisometropia or waiting for a corneal transplant. (Exhibit 14: Determination Letter)
27. On [REDACTED] 2023, the OLCRAH held an administrative hearing. The hearing record remained open to allow the Appellant an opportunity to submit additional medical documentation and for CHNCT to complete an additional review of such evidence. (Hearing Record)
28. On [REDACTED] 2023, the Appellant submitted a letter from [REDACTED] ("Neurologist"), [REDACTED] dated [REDACTED] 2023. The Neurologist writes, "[The Appellant] is currently under my medical supervision for chronic migraine. Visual strain can precipitate/exacerbate her migraine headaches." (Exhibit B: Medical Necessity Letter)
29. On [REDACTED] 2023, the Appellant submitted a letter from the Specialist dated [REDACTED] 2023. The Specialist writes, "When these limitations are experience in glasses and soft contact lenses, specialty scleral contact lenses, made from rigid gas permeable plastics, are a tool to provide improved and comfortable vision. With her scleral contact lenses fit by myself, [the Appellant] was able to see 20/30 right eye and 20/25 vision left eye....the scleral contact lenses allows for safer driving, improved peripheral (side) vision and a greater ability to function well in visually demanding tasks for work and general daily duties." (Exhibit A: Medical Necessity Letter)
30. On [REDACTED] 2023, CHNCT requested a reconsideration review by Dr. O'Connor and Dr. Kuhn. Request for scleral lenses denied because the Appellant does not have a diagnosis of aphakia, congenital aphakia,

keratoconus, other congenital corneal malformations, corneal transplant status or anisometropia. CHNCT evaluated the eligibility for such lenses by applying the DSS coverage policy/guideline/benefit grid and the definition of medical necessity. (Exhibit 17: Reconsideration Review)

31. On [REDACTED] 2023, CHNCT submitted a Hearing Summary Addendum to the OLCRAH and the Appellant. CHNCT completed a reconsideration review of the neurologist letter of medical necessity and the specialist letter of medical necessity submitted by the Appellant on [REDACTED] 2023 and upheld the denial of scleral lenses. CHNCT notes improvement in vision with scleral lenses over glasses or soft contact lenses. CHNCT cites there is no documentation of a trial with rigid gas permeable contact lenses as an alternative. CHNCT cites specialty contact lenses are considered medically necessary for a diagnosis of aphakia, congenital aphakia, keratoconus, other congenital corneal malformations, corneal transplant status or anisometropia of which the Appellant does not have a diagnosis of. (Exhibit 15: Reconsideration Addendum)
32. 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] 2023, was rescheduled at the request of the Appellant, which caused a [REDACTED]-day delay. Additionally, the close of hearing record which had been anticipated to close on [REDACTED] 2023 did not close until [REDACTED] 2023 to allow the Appellant to submit additional evidence and CHNCT an opportunity to comment on the additional evidence resulting in an additional [REDACTED]-day delay. Because the [REDACTED]-day delay and [REDACTED]-day delay resulted from the Appellant's requests, this decision is not due until [REDACTED] 2023, and therefore timely

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stat.") provides as follows:

The Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIXI of the Social Security Act.

"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

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)

“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)

3. 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)

4. Section 17b-262-559 of the Regulations of Connecticut State Agencies ("Regs., Conn. State Agencies") provides as follows:

Sections 17b-262-559 through 17b-262-571, inclusive, set forth the Department of Social Services requirements for payment of accepted methods of treatment provided by an ophthalmologist, optometrist, or optician 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).

5. "Payment for vision care 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-262-562
6. State regulations provide as follows:

Except for the limitations and exclusions listed below, the department shall pay for the professional services of a licensed ophthalmologist, optometrist, or optician which conform to accepted methods of diagnosis and treatment, but shall not pay for anything of an unproven, educational, social, research, experimental, or cosmetic nature; for 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-262-563(a)

State regulation provides as follows:

The department shall pay for medically necessary and medically appropriate vision care services for Medical Assistance Program eligible clients, in relations to the diagnosis for which care is required, provided that:

- a. The services are within the scope of the provider's practice;
- b. The services are made part of the client's medical record; and
- c. For contact lenses, glasses, or vision training, only when prescribed by a physician, doctor of osteopathy, or optometrist.

Regs., Conn. State Agencies § 17b-262-565

“Contact lenses shall be covered, when such lenses provide better management of a visual or ocular condition than can be achieved with spectacle lenses, including, but not limited to the diagnosis of: Unilateral Aphakia, Keratoconus, Corneal Transplant, and High Anisometropia.”
Regs., Conn. State Agencies § 17b-262-570(a)

7. State Regulation provides as follows:

- a. Prior authorization for EPSDT services not on the Vision Care fee schedule or which are on such fee schedule but for which there are limitations in the amount, frequency or circumstances under which such services can be used, either in the fee schedule or in the Regulations of Connecticut State Agencies published by the department, may be obtained using the following procedures:
 1. Services not on the fee schedule, or for which there are limitations on their use, may be authorized on a case-by-case basis. Requests for prior authorization to provide services shall be made on forms and in a manner as specified by the department.
 2. Providers requesting prior authorization to provide services shall be required to provide pertinent medical or social information adequate for evaluating the client's medical need for services. This information shall include: (A) a written statement from the prescribing physician, or other practitioner of the healing arts, performing such services within such practitioner's 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 order to render a decision.
 3. Except in emergency situations, or when authorization is being requested for more than one visit in the same day, approval shall be received before services are rendered. In an emergency situation which occurs after working hours or on a weekend or holiday, the provider shall secure verbal approval on the next working day for the services provided.
- b. 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 an authorization request. Prior authorization does not, however, guarantee payment unless all other requirements for payment are met.

Regs., Conn. State Agencies § 17b-262-566

“Services and materials covered shall be limited to those listed in the department’s fee schedule.” Regs., Conn. State Agencies § 17b-262-570(e)

The Connecticut Department of Social Services Optician/Eyeglasses online fee schedule at [Provider Fee Schedule Download \(ctdssmap.com\)](http://Provider Fee Schedule Download (ctdssmap.com)) lists V2799 Miscellaneous Vision Item or Service which requires prior authorization if acquisition cost is greater than \$95.81.

8. On [REDACTED] 2022, the specialist correctly submitted a request for prior authorization for specialty contact lenses, specifically scleral lenses as covered under the Department’s fee schedule. The specialist, upon request, correctly provided CHNCT with the medical documentation needed to render a decision.

CHNCT incorrectly denied the prior authorization request for scleral lenses. CHNCT denied such request citing scleral lenses as not medically necessary based on the assessment of the Appellant’s medical condition because the Appellant is not waiting for a corneal transplant nor was she diagnosed with anisometropia, aphakia, keratoconus, or a deformity of the cornea.

State regulation provides that coverage for contact lenses is provided when such lenses provide better management of a visual or ocular condition including but not limited to (for emphasis) the diagnosis of unilateral aphakia, keratoconus, corneal transplant, and high anisometropia. Additionally, as cited by CHNCT, the Husky Health Benefits and Prior Authorization Grid for Vision covered services lists “contact lenses are covered for certain diagnoses including but not limited to (for emphasis) unilateral aphakia, keratoconus, corneal transplant, high anisometropia. CHNCT’s logic to deny the prior authorization request because the Appellant did not have the specific diagnosis listed in the regulation or grid is flawed. The language but not limited to allows for approval based on an assessment of the individual and their medical condition as stated under Conn. Gen. Stat. § 17-259b which defines medically necessary and medical necessity.

The Appellant requires eyeglasses and contact lenses as prescribed by her ophthalmologist to correct her vision. Due to the Appellant’s medical diagnoses, eyeglasses and soft contact lenses do not provide for the best achievable outcome to correct her vision. The Appellant’s eyesight has a better quality of vision while wearing scleral lenses as cited by both the Ophthalmologist and Specialist. These lenses can provide more adequate and comfortable vision to maintain her achievable health and independent functioning which

eyeglasses and soft contact lenses can no longer provide. Scleral lenses are medically necessary to correct the Appellant's vision defects.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. CHNCT must approve the [REDACTED] 2022 prior authorization request submitted by the specialist on behalf of the Appellant for scleral lenses as medically necessary.
2. CHNCT must rescind its [REDACTED] 2022 Notice of Action denying such request and issue a new notice of approval to the Appellant and her providers.
3. Compliance is due 10 days from the date of this decision.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: 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.