

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

██████████ 2023
Signature Confirmation

Client ID # ██████████
Case ID ██████████
Request # 205590

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, Community Health Network of Connecticut (“CHNCT”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying a request for prior authorization for a ██████████ robotic arm (“robotic arm”). CHNCT denied the prior authorization request stating that the provider’s medical documentation submitted did not show that the robotic arm was medically necessary for the member.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the CHNCT decision to deny the prior authorization request for the robotic arm.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2023.

On ██████████ 2023, the Appellant requested a continuance which OLCRAH granted.

On ██████████ 2023, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2023.

On [REDACTED] [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 at the Middletown Regional Office.

The following individuals were present for the hearing:

[REDACTED], Appellant

[REDACTED], Appellant's Mother

[REDACTED], Appellant's Father

[REDACTED], [REDACTED], [REDACTED], Attorney for the Appellant

Dr. Kristine Lisi, Vice President of Clinical Affairs, CHNCT Representative

Dr. Sharon Kuhn, Pediatric Reviewer, CHNCT Representative

Barbara McCoid, BS, RN, CCM, CHNCT Representative

Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence from the Appellant. On [REDACTED] [REDACTED] 2023, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's denial of prior authorization through the Medicaid program for the robotic arm 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. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of durable medical equipment ("DME"). (Hearing Record)
3. On [REDACTED] [REDACTED] 2022, CHNCT received a prior authorization request from [REDACTED] also known as [REDACTED], seeking approval on behalf of the Appellant for a [REDACTED] Robotic Arm (Code E1399) ("robotic arm") along with supporting medical documentation. (Exhibit 1: PA Request)
4. On [REDACTED] [REDACTED] 2022, CHNCT denied a prior authorization request for the approval of the robotic arm from Numotion and notified the Appellant of the denial. The notice states CHNCT denied the prior authorization request for the robotic arm because "we did not receive enough information from your

- provider to show that this good is medically necessary for you. [REDACTED] must give us information to show that you need a [REDACTED] robotic arm. We asked for the information, but did not get it.” (Exhibit 4: Notice of Action and)
5. On [REDACTED] [REDACTED] 2022, the Appellant requested an administrative hearing. (Exhibit 5: Administrative Hearing Request)
 6. On [REDACTED] [REDACTED] 2022, CHNCT issued a notice of appeal to the Appellant. The notice confirmed receipt of the Appellant’s appeal outlining the reason for the denial of the prior authorization as “[REDACTED], [REDACTED] must give us information to show that you need a [REDACTED] robotic arm. We asked for information but did not get it.” The notice requests any additional medical information to be sent directly to the CHNCT’s representative. (Exhibit 6: Acknowledgement Letter)
 7. On [REDACTED] [REDACTED] 2022, CHNCT requested an independent appeal review of the prior authorization request for the robotic arm from Network Medical Review Co., Ltd. (“NMR”). (Exhibit 11: Medical Review Request)
 8. On [REDACTED] [REDACTED] 2022, NMR determined the robotic arm as not medically necessary for the Appellant citing Department coverage policy and the definition of medically necessary. (Exhibit 11: Medical Review Request)
 9. On [REDACTED] [REDACTED] 2022, CHNCT notified the Appellant their denial of the prior authorization request for the robotic arm is upheld. The notice states the reason for denial is that the information does not support the medical necessity for the robotic arm based on research, studies, and clinical guidelines. There is not enough published evidence to show that it is safe or helpful for those with neuromuscular disease. “The Robotic Arm will not help you achieve independence. The videos sent do not show that you are able to eat, drink or brush your teeth with this device. There is also limited data to support that the robotic arm will improve the Duchene Muscular Dystrophy.” (Exhibit 13: Determination Letter)
 10. On [REDACTED] [REDACTED] 2023, the Department held an administrative hearing. (Hearing Record)
 11. On [REDACTED] [REDACTED] 2023, CHNCT overturned their [REDACTED] [REDACTED] 2022 denial of the request for the robotic arm and approved the robotic arm for the Appellant. CHNCT issued the Appellant a notice informing him of their decision to approve the requested medical equipment. (Exhibit 14: Appeal Review Notice)
 12. 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 for [REDACTED] 2023, at the request of the Appellant, which caused a [REDACTED]-day delay. Additionally, the close of the hearing record, which had been anticipated to close on [REDACTED] 2023, did not close for the admission of evidence until [REDACTED] 2023 at the Appellant's request. Because this [REDACTED] day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2023, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statute provides as follows:

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. Uniform Policy Manual ("UPM") § 1570.25 (C)(2)(k) provides as follows:

The Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department's policies and regulations. The Fair Hearing decision is intended to resolve the dispute.

Department policy provides for matters considered at the Fair Hearing:

The Department considers the following issues: decisions by the Department regarding eligibility for benefits in both initial and subsequent determinations.

UPM § 1570.25(F)(2)(a)

On [REDACTED] 2023, Ascend voided the action that led to the Appellant's request for an administrative hearing and approved the Appellant's request for the robotic arm thus, the Appellant has not experienced any loss of benefits.

The Appellant's hearing issue has been resolved; therefore, there is no issue on which to rule. "When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

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.