

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

[REDACTED] 2023
SIGNATURE CONFIRMATION

CASE ID # [REDACTED]
CLIENT ID # [REDACTED]
REQUEST # 213478

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2023, the Department of Social Services (the "Department"), through its Administrative Service Organization, Community Health Network of Connecticut ("CHNCT") sent a Notice of Action ("NOA") to [REDACTED] (the "Appellant") denying a request for prior authorization for a mastectomy (removal) for gynecomastia (excess breast tissue).

On [REDACTED] 2023, the Appellant requested an administrative hearing to contest CHCNT's denial of prior authorization.

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

On [REDACTED] 2023, in accordance with sections 17b-60, 17-61 and 4-176e to 4-184 inclusive of the Connecticut General Statutes, OLCRAH held an Administrative Hearing. The following individuals participated in the hearing:

[REDACTED] Appellant
Robin G., CHNCT Appeals and Grievances Analyst
Angelica M., CHNCT Representative (observing only for training purposes)
Joseph Alexander, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT correctly denied prior authorization for the Appellant's procedure as not medically necessary.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old (D.O.B. [REDACTED]). (Exhibit 6: Medical Record Request dated [REDACTED]/23, Hearing Record)
2. On [REDACTED] 2023, CHNCT received a prior authorization ("PA") request from [REDACTED] (Plastic Surgeon) for a mastectomy for gynecomastia. (Exhibit 1: Prior Authorization Request dated [REDACTED]/23)
3. On [REDACTED] 2023, the Medical Reviewer for CHNCT denied the PA request. The reviewer concluded the medical necessity for a mastectomy for gynecomastia was unable to be determined as there was no evidence of significant signs and symptoms of gynecomastia such as breast pain or tenderness. (Exhibit 2: Medical Review Note Description)
4. On [REDACTED] 2023, CHNCT sent a NOA to the Appellant denying the PA request for mastectomy for gynecomastia. (Exhibit 3: Notice of Action for Denied Services or Goods Medical Necessity)
5. On [REDACTED] 2023, CHNCT received a written appeal from the Appellant. (Exhibit 4: Administrative Hearing Request)
6. On [REDACTED] 2023, CHNCT reviewed the appeal, confirmed providers to contact for the appeal, and sent an acknowledgement letter to the Appellant. (Exhibit 5: Acknowledgment Letter, Hearing Record)
7. On [REDACTED] 2023, CHNCT notified [REDACTED] (Plastic Surgeon), [REDACTED] (Primary Care Physician) and [REDACTED] (Bariatric Surgeon) of the Appellant's appeal and requested additional information. (Exhibit 6, 7 & 8: Medical Records Requests)
8. On [REDACTED] 2023, CHNCT attempted to confirm the status of the medical records requests with the offices of [REDACTED] Voicemail's requesting return telephone calls were left with said offices. The office of [REDACTED] confirmed with CHNCT there was no information to provide for the appeal. (Exhibit 9: Medical Review Requests, Hearing Record)
9. On [REDACTED] 2023, CHNCT reviewed the information needed for the appeal with [REDACTED] office and provided a fax number for the office to use to return the information. (Hearing Record)

10. On [REDACTED] 2023, CHNCT completed a Medical Review in response to the appeal request. CHNCT upheld the original denial of the PA for mastectomy for gynecomastia as no information had been provided by either [REDACTED] [REDACTED]'s offices and the clinical information provided to CHNCT on [REDACTED] 2023, did not provide sufficient evidence for the medical necessity of this procedure. (Exhibit 10: Medical Review)
11. On [REDACTED] 2023, CHNCT sent a determination letter to the Appellant regarding the upholding of the decision to deny the procedure. (Exhibit 11: Determination Letter)
12. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires a decision be issued within 90 days of the request for an administrative hearing. The hearing request was received on [REDACTED] 2023, making this decision due no later than [REDACTED] 2023.

CONCLUSIONS OF LAW

1. Section 17b-262 of the Connecticut General Statutes ("Conn. Gen. Stat.") provides that the Department is the designated state agency for the administration of the Medicaid program pursuant to the Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program.
2. Conn. Gen. Stat. § 17b-259b(a)(b) provides that 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.

(b) Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. Conn. Gen.Stat. § 17b-259b(b) Upon denial of a request for authorization of services based on medical necessity.

3. Connecticut Agencies Regulations (“Conn. Agencies Reg”) 17b-262-531(g) provides that Medicaid pay for Medicaid-covered services that are medically necessary.
4. Conn. Agencies Reg. § 17b-262-342 provides that the Department shall not pay for the following good or services or good or services related to the following:
 - (1) Immunizations, biological products and other products available to providers free of charge;
 - (2) Examinations and laboratory tests for preventable diseases that are furnished free of charge;
 - (3) Information or services provided to a client by a provider electronically or over the telephone;
 - (4) Cosmetic surgery;
 - (5) An office visit for the sole purpose of the client obtaining a prescription where the provider previously determined the need for the prescription;
 - (6) Cancelled services and appointment not kept;
 - (7) Services provided in a general hospital if the department determines the admission does not, or retrospectively did not, comply the department’s utilization review requirements is section 17-134d-80 of the Regulations of Connecticut State Agencies;
 - (8) Infertility treatment;
 - (9) Sterilizations performed on mentally incompetent individuals or institutionalized individuals;
 - (10) More than one visit per day to the same provider by a client;
 - (11) Services to treat obesity other than those described in section 17b-262-341(9) of the Regulations of Connecticut State Agencies; and
 - (12) 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.

CHNCT correctly determined the Appellant’s medical condition does not meet the “medically necessary” or “medical necessity” criteria based on the information provided for review.

The medical records submitted to CHNCT for review do not show the Appellant is experiencing breast pain or tenderness which would support the medical need for a mastectomy procedure.

CHNCT correctly denied the PA request on [REDACTED] 2023.

DECISION

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

Joseph Alexander
Administrative Hearing Officer

CC: appeals@chnct.org
Fatma Williams, Department of Social Services, Central Office

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.