

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

[REDACTED] 2023  
Signature Confirmation

Case ID # [REDACTED]  
Client ID # [REDACTED]  
Request # 217510

**NOTICE OF DECISION**

**PARTY**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**PROCEDURAL BACKGROUND**

On [REDACTED] 2023, Community Health Network of CT (“CHNCT”) issued [REDACTED] (the “Appellant”) a Notice of Action (“NOA”) denying a request for authorization of a Rifton Pacer Gait Trainer.

On [REDACTED], 2023, the Appellant’s Authorized Representative (the “AREP”), requested an administrative hearing to contest the denial of the Rifton Pacer Gait Trainer.

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 AREP requested to reschedule the administrative hearing.

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

On [REDACTED] 2023, the AREP requested to reschedule the administrative hearing.

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

On [REDACTED], 2023, the Department requested to reschedule the administrative hearing.

On [REDACTED], 2023, 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, the OLCRAH held an administrative hearing.

The following individuals attended the administrative hearing:

[REDACTED], Appellant's Mother and AREP  
[REDACTED], Director of Residential Services, Facility's Representative  
Robin Goss, RN, CHNCT, Appeals & Grievances Analyst  
Kristin Haggan, Hearing Officer

The Appellant did not attend the administrative hearing due to his disability.

The hearing remained open for the AREP to submit additional documentation. On [REDACTED] 2023, the record closed.

### **STATEMENT OF ISSUE**

The issue is whether CHNCT correctly denied prior authorization through the Medicaid program for a Rifton Pacer Gait Trainer as not medically necessary in accordance with state laws and state regulations.

### **FINDINGS OF FACT**

1. The Appellant is a participant in the Medicaid program, as administered by 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] 2023, CHNCT received a prior authorization request from ATG Connecticut/NuMotion (the "Vendor") for a Rifton Pacer Gait Trainer for the Appellant, ordered by the Appellant's Provider, [REDACTED] (the "Physician"). The request included the signed prescription order for the DME, the quote for the cost of the DME, the Appellant's measurements for the DME, office notes from the Appellant's Neurologist, [REDACTED] (the "Neurologist"), and a letter from the Appellant's Physical Therapist, [REDACTED] the "PT"), stating that the Appellant "is very active and able to walk around his environment, but when he has a seizure he drops face first to the ground. He is non-verbal and therefore cannot determine when he is having a seizure. He cannot notify a caregiver either that this is happening. The doctors and family have tried devices that can prevent the seizures from happening. He has a VNS which is implanted to reduce seizures. It has helped somewhat but he is still having these seizures which are causing him injuries including sutures and bruising. The drops from the seizures also have the potential to cause fractures and other

severe traumas like head trauma. [REDACTED] can walk freely with a rolling walker and a rollator but if he has a seizure the walker will not hold him up and will fall with him, possibly onto him. This can cause injury to him from falling to the floor and with a walker falling on him. When he tried the Rifton Pacer the Pacer frame with base, medium chest prompt, large chest pad, and large pelvic support all helped support him and keep him from falling to the ground and obtaining some injuries. If he had this Pacer it would reduce the need for staff. He would need less staff because he will not drop to the floor and not need to be picked up. Also, there would be less staff needed to watch him if he starts to have a seizure and keep him safe while having one. Please consider the Appellant for the Rifton Pacer for safe ambulation.” The Physician reviewed the PT’s statement, stated that he concurred with it, and signed it. The PT also provided descriptions of the requested DME parts along with justifications:

1. Large Pacer Standard Pacer Frame – “a base piece that is used for attaching accessories to it and building the Rifton Pacer from it”.
  2. Utility Base with Odometer – “This base will allow [REDACTED] to use the pacer on various surfaces with various wheel sizes in front and back. [REDACTED] is not just limited to indoors, he can go outside on grass and gravel at the Day Program and his home”.
  3. Large Handle Bars – “This is needed to balance his upper trunk stable in the pacer while walking”.
  4. Medium Chest Prompt – “This part offers support and safety when he has poor trunk support when he has a seizure in the pacer”.
  5. Large Chest Pad – “This keeps him upright to prevent forward flexion when walking. It will also keep his trunk up if he should have a seizure in the pacer. This would prevent a fall and possible injury”.
  6. Large Pelvic Support with Handholds – “This allows for freedom of movement in abduction”.
  7. Communication Tray – “Used to hold the communication device. He also can use it to hold an activity while in the pacer”. (*Exhibit 1*)
4. The Rifton Pacer Gait Trainer is considered DME by the HUSKY health program. (*Hearing Record*)
  5. The Appellant was [REDACTED] years old at the time of the hearing (DOB [REDACTED]). (*AREP’s Testimony, Exhibit 1: Prior Authorization Request*)
  6. The Appellant has been diagnosed with Autism Spectrum Disorder, Epilepsy, Developmental Delay, and Intellectual Impairment. He resides in a group home. (*Exhibit 1, Hearing Record*)
  7. The Appellant’s seizure medications include Levetiracetam, Onfi, Trileptal, Banzel, and Epidiolex. He has a Vagus Nerve Stimulator (“VNS”) implant which sends an electric current up the vagus nerve and connects to the brain. The VNS stimulation intervenes with the seizure. The Appellant’s seizure medications combined with the VNS implant have helped to decrease the number of seizures the Appellant

experiences, however, he still has seizures from time to time. The Appellant's seizures are unpredictable, and he can have clusters of many seizures in one day. Sometimes the Appellant has "planking" seizures which cause him to fall to the ground, often hitting his head. In the last year, the Appellant has visited the hospital 24 times because of injuries due to his seizures. He suffered from a broken cheekbone, a broken collarbone, and a shoulder injury. He received 29 stitches. *(AREP's testimony, Exhibit 1)*

8. The Appellant cannot wear a helmet because he has sensory issues related to his autism. The lack of protection for his head is dangerous when he has seizures and experiences falls. *(AREP's Testimony)*
9. Each Rifton Pacer Gait Trainer (the "DME") is created specifically for its users based on their unique height and weight measurements. The DME is made with chest padding that could prevent the Appellant from pitching forward or falling over during or after a seizure. The DME has brakes on all four wheels to stop it from moving if the Appellant is having a seizure. The DME has a saddle seat that the Appellant could "plop" down on if he were having a seizure. The DME has a belt attached to the saddle seat to prevent him from falling out of the seat during a seizure. The DME has straps for his arms to prevent the Appellant from falling. *(AREP's testimony, Exhibit 13: Email with Photo of Appellant Using Trial Rifton Pacer Gait Trainer, Exhibit B: Photos of Rifton Pacer Gait Trainer Parts)*
10. The Appellant can walk around freely with a regular rolling walker or rollator, however, if he has a seizure while using one it could be potentially dangerous and cause him injuries. A regular rolling walker cannot hold the Appellant up during a seizure and does not have a strapped-in seat for him to sit down on during a seizure which could cause severe injury by allowing the Appellant to fall and hit his head. A regular rolling walker could potentially fall on top of him during a seizure causing further injury. The Appellant does not own a regular rolling walker or rollator because it could be dangerous for him to use. *(AREP's Testimony, Exhibit 1)*
11. The staff at the Appellant's group home often place him in a wheelchair or a recliner chair and limit the amount of walking that he does throughout the day to reduce the risk of injury if a seizure were to occur. When the Appellant is allowed to walk around the group home, he wears a backpack with a strap on it and his caregivers hold onto the strap and walk everywhere with him so they can attempt to catch him if he has a seizure. The Rifton Pacer Gait Trainer would allow the Appellant to walk around more often, more freely, and safely, and experience more independence. The Appellant's use of the DME would also reduce the number of staff members that he relies on throughout the day. *(AREP's testimony, Facility's Representative's Testimony)*
12. The Appellant had a trial usage of the Rifton Pacer Gait Trainer, which went well. The Appellant did not experience a seizure during the trial. His neurologist felt that the trial of the DME was very beneficial in that it "allowed him a limited amount of ambulation and autonomy without courting the risk of another fall" and stated that "if the DME were made available to the Appellant that it would very probably markedly increase

his quality of life and the strength in his lower extremities”. (*AREP’s Testimony, Exhibit 1*)

13. The AREP visited ██████ High School and watched other children using the DME to walk and achieve exercise in the gym as well as outside on the track. During the visit, the AREP witnessed a child who was using the Rifton Pacer Gait Trainer having a seizure. The DME kept the child safe from falling and prevented him from injuring himself. (*AREP’s Testimony*)
14. The Appellant’s muscles have begun to atrophy due to lack of exercise from frequent sitting at the group home in his wheelchair or recliner chair. (*AREP’s Testimony*)
15. On ██████ 2023, CHNCT’s medical reviewer, denied the Rifton Pacer Gait Trainer. The Doctor noted: “The documentation indicates that his seizure control is the best it has been in a long time, but he can still have clusters of many seizures per day. A rescue nasal spray of Nayzilam, Valtoco, and Midazolam does not stop the large sets of cluster seizures at times. The Rifton Pacer is being requested to provide this member with safe ambulation as he will fall to the ground during his seizures and often sustains injuries. A letter authored by the Physical Therapist indicates that this member is very active and is able to walk around his environment with a rolling walker and a rollator, but if he has a seizure, the walker will not hold him up. Per InterQual guidelines, gait trainers are considered medically necessary for individuals with cerebral palsy or other neuromuscular or congenital disorders causing impaired motor function resulting in them being non-ambulatory or unable to ambulate with a handheld walker or less restrictive device. As this member is noted to be very active and able to walk around his environment with a rolling walker and a rollator, the medical necessity for a gait trainer has not been established. In addition, the intended purpose of a gait trainer is not to prevent falls associated with seizures. In fact, given that this device is on wheels, the safety of the member while having a seizure could be severely compromised. Therefore, after an assessment of this member and his condition, this request cannot be approved as this device has not been shown to be safe and effective in this unique clinical scenario and this device is not required to meet the medical needs of this member as he is able to walk around his environment with a rolling walker.” (*Exhibit 2: Medical Review ██████/23*)
16. On ██████, 2023, CHNCT issued the Appellant an NOA stating that the request for the Rifton Pacer Gait Trainer was denied. The notice stated in part that the DME is not medically necessary based upon the assessment of the Appellant’s specific medical conditions. The notice stated that based on the criteria used for review, gait trainers may be medically needed for people with cerebral palsy, neurological problems, or other inherited movement problems who cannot walk or use a walker, and because the Appellant is able to walk using a walker, it cannot be determined that the Appellant has a medical need for a gait trainer. The notice also stated that a gait trainer is not meant to be used to prevent falls due to seizures and given that it is on wheels, it cannot be determined to be safe in the event that the Appellant has a seizure

while using it. The notice states that the Appellant has the physical ability to walk with a rolling walker and his request is denied. (*Exhibit 3: NOA* [REDACTED]/23)

17. On [REDACTED] 2023, the AREP requested an administrative hearing to contest the denial of the DME. (*Exhibit 4: AREP Appeal Request*)
18. On [REDACTED], 2023, CHNCT sent the Appellant a notice stating that it received the administrative hearing request and stated in part that the DME is not medically necessary for him because he does not have cerebral palsy, neurological problems, or other inherited movement problems. The notice stated that because the gait trainer is on wheels, it cannot be determined to be safe if the Appellant has a seizure while using it. The notice stated that the documentation CHNCT received showed that the Appellant has the physical ability to walk using a rolling walker on wheels. The notice informed the Appellant to submit any additional information regarding the appeal. (*Exhibit 5: Appeal Notice* [REDACTED]/23)
19. On [REDACTED], 2023, CHNCT sent the Physician a notice informing him that the Appellant filed an appeal for the denial of the DME. The notice stated that per InterQual guidelines, gait trainers are considered medically necessary for individuals with cerebral palsy or other neuromuscular or congenital disorders causing impaired motor function resulting in them being non-ambulatory with a handheld walker or less restrictive device. The notice stated that the Appellant is noted to be very active and able to walk around his environment with a rolling walker and a rollator and that the purpose of a gait trainer is not to prevent falls associated with seizures. The notice stated that additional information was needed and requested that the Physician submit clinical documentation that supports the medical need for the Rifton Pacer Gait Trainer for the Appellant and his specific medical condition, and/or a letter of medical necessity in support of the medical need of the DME. (*Exhibit 7: Notice to Physician* [REDACTED]/23)
20. On [REDACTED], 2023, the Appellant's PT submitted a signed statement to CHNCT in response to its denial letter for the DME. The PT explained that the Appellant has seizures which cause him to drop to the floor. The PT states that a walker or rollator would fall with the Appellant if he has a seizure while walking, but the Rifton Pacer Gait Trainer would allow for safe ambulation by allowing him not to fall to the floor if he were to have a seizure while walking. The PT cited twelve separate occurrences of the Appellant's falling which required visits to the Emergency Room. The PT states that if the DME could be obtained for the Appellant to use when he is walking it would hold him up and keep him injury-free if he had a seizure. The PT stated "If we could obtain a device for [REDACTED] to use when he is walking that would hold him up and keep him injury-free if he had a seizure, it should be purchased. Would you please reconsider approving this Rifton Pacer for [REDACTED] so he can stay strong and mobile from ambulating and now safe and free of injury". (*Exhibit 6: Letter from PT*)
21. On [REDACTED], 2023, CHNCT issued the Vendor a notice stating that the Appellant filed an appeal for the denial of the DME. The notice stated that per InterQual guidelines,

gait trainers are considered medically necessary for individuals with cerebral palsy or other neuromuscular or congenital disorders causing impaired motor function resulting in them being non-ambulatory with a handheld walker or less restrictive device. The notice stated that the Appellant is noted to be very active and able to walk around his environment with a rolling walker and a rollator and that the purpose of a gait trainer is not to prevent falls associated with seizures. The notice stated that additional information was needed and requested that the Physician submit clinical documentation that supports the medical need for the Rifton Pacer Gait Trainer for the Appellant and his specific medical condition, and/or a letter of medical necessity in support of the medical need of the DME. (*Exhibit 8: Appeals Notice* [REDACTED]/23).

22. On [REDACTED], 2023, the Vendor sent a fax to the CT Medicaid Appeals Department. The fax included a copy of the original prior authorization request with copies of all documents that were submitted with the original request, as well as a copy of the letter that the PT submitted to CHNCT regarding the denial of the DME. The fax coversheet requested that the Appellant's case be reviewed again with the additional information that was provided by the PT. (*Exhibit 9: Fax from NuMotion to CT Medicaid Appeals*)
23. On [REDACTED], 2023, CHNCT sent the appeal for medical review. (*Exhibit 10: Medical Review Request*)
24. On [REDACTED], 2023, CHNCT's Medical Director conducted a Level 1 medical review of the Rifton Pacer Gait Trainer for the Appellant and upheld the initial denial. The Medical Director reviewed the submitted appeals documents (the quote from the Vendor, Provider's standard written order, the Neurologist's office notes, Provider's order form, letter from the PT, and the Rifton quote) and concluded that the request does not support the DSS definition of Medical Necessity as it is not consistent with generally accepted standards of medical practice that are defined as standards, and the requested gait trainer is also not supported by InterQual guidelines. (*Exhibit 11: CHNCT Medical Review* [REDACTED]/23)
25. On [REDACTED] 2023, CHNCT sent a determination letter to the Appellant upholding the [REDACTED] 2023, denial of the Rifton Pacer Gait Trainer because the information provided did not support the medical necessity for the requested DME because "the intended purpose of a gait trainer is not to prevent falls associated with seizures. Gait trainers are considered medically necessary for individuals with neuromuscular disorders causing impaired motor function resulting in them being non-ambulatory or unable to ambulate with a handheld walker or other less restrictive device. It is noted that you are very active and able to walk around in your environment with a rolling walker and a rollator. In the case of a fall risk with seizures, a manual wheelchair can be used. (*Exhibit 12: Determination Letter dated* [REDACTED] 23)

## CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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. Section 17b-262 of the Connecticut General Statutes, states, in part, that the Commissioner may make such regulations as are necessary to administer the Medical Assistance Program.
3. Sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies set forth the Department of Social Services requirements for the payment of durable medical equipment (“DME”) to providers, for clients who are determined eligible to receive services under Connecticut Medicaid pursuant to section 17b-262 of the Connecticut General Statutes.

Section 17b-290 of the Connecticut General Statutes, states that “Durable medical equipment” means equipment that meets all of the following requirements:

- A. Can withstand repeated use;
- B. Is primarily and customarily used to serve a medical purpose;
- C. Generally is not useful to a person in the absence of an illness or injury; and
- D. Is nondisposable.

**CHNCT correctly determined that the Rifton Pacer Gait Trainer is considered DME.**

4. Section 17b-262-673(20) of the Regulations of Connecticut State Agencies provides that “prior authorization” or “PA” means approval for the service or the delivery of goods from the department before the provider actually provides the service or delivers the goods.”

Section 17b-262-676(a)(1) of the Regulations of Connecticut State Agencies provides that the department shall pay for the purchase or rental and the repair of DME, except as limited by sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies, that conforms to accepted methods of diagnosis and treatment and is medically necessary and medically appropriate.

Section 17b-262-676(a)(4) of the Regulations of Connecticut State Agencies provides that when the item for which Medicaid coverage is requested is not on the department’s fee schedule, prior authorization is required by the department. The recipient requesting Medicaid coverage for a prescribed item not on the list shall submit such prior authorization request to the department through an enrolled provider of DME. Such request shall include a signed prescription and shall include documentation showing the recipient’s medical need for the prescribed item. If the item for which Medicaid coverage is requested is not on the department’s fee schedule, the provider shall also include documentation showing that the item meets



the department's definition of DME and is medically appropriate for the client requesting coverage of such item.

**CHNCT correctly determined that the prior authorization for the DME required a physician's prescription and documentation showing the Appellant's medical need for this item.**

**The AREP correctly provided a signed prescription from the Appellant's physician as well as documentation from his physician, neurologist, and physical therapist to support his need for the DME.**

5. Section 17b-259b(a) of the Connecticut General Statutes 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.

Section 17b-262-676(b)(1) of the Regulations of Connecticut State Agencies provides that the department shall not pay for anything of an unproven, experimental or research nature or for services in excess of those deemed medically necessary by the department to treat the recipient's condition or for services not directly related to the recipient's diagnosis, symptoms, or medical history.

Section 17b-259b(b) of the Connecticut General Statutes stated in part that "Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a request for health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity."

**The Appellant has a neuromuscular disorder causing impaired motor function during his epileptic episodes, which results in his inability to ambulate safely with a handheld walker or less restrictive device. Based on testimony and documentation from the AREP, Physician, Neurologist, and Physical Therapist,**

the Rifton Pacer Gait Trainer would allow the Appellant to ambulate safely, improve the atrophy of his muscles from prolonged sitting by increasing his motor function, provide for a better quality of life, and would allow him to attain an achievable health and independent functioning. The Rifton Pacer Gait Trainer is considered medically necessary based on state statutes.

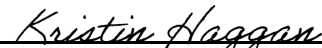
On [REDACTED] 2023, CHNCT incorrectly denied the Appellant's request for the Rifton Pacer Gait Trainer as not medically necessary stating that the Rifton Pacer Gait Trainer is considered medically necessary for individuals with cerebral palsy or other neuromuscular or congenital disorders causing impaired motor function resulting in them being non-ambulatory with a handheld walker or less restrictive device.

### DECISION

The Appellant's appeal is GRANTED.

### ORDER

1. CHNCT must rescind its denial of the prior authorization request for the Rifton Pacer Gait Trainer.
2. CHNCT must approve the prior authorization request for the Rifton Pacer Gait Trainer and notify all appropriate parties.
3. Compliance with this order is due 10 days from the date of this decision.



Kristin Haggan  
Hearing Officer

CC: Fatmata Williams, DSS  
Robin Goss, CHNCT  
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 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.