

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

██████████ 2024
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 232915

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2023, Community Health Network of Connecticut (“CHNCT”), the Department of Social Services (the “Department”) contractor for reviewing prior authorization requests for durable medical equipment (“DME”), issued ██████████ (the “Appellant”) a Notice of Action for Denied Services or Goods (“NOA”) denying authorization for a Cubby Safety Bed with a waterproof mattress protector and Technology Hub.

On ██████████ 2024, the Appellant requested an administrative hearing to contest CHNCT’s decision to deny the prior authorization request for the Cubby Safety Bed with a waterproof mattress protector and Technology Hub.

On ██████████ 2024, CHNCT approved prior authorization of the Cubby Safety Bed and Mattress protector and upheld the denial of the Technology Hub.

On ██████████ ██████████, 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2024.

On ██████████ 2024, the Appellant requested the administrative hearing be rescheduled.

On [REDACTED] 2024, the OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED], 2024.

On [REDACTED] 2024, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing phone.

The following individuals attended the hearing:

Debonie Thompson, Appellant
Robin Goss, RN, BSN, CHNCT's Representative
Michelle Rusgrove, CHNCT's Observer
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided whether CHNCT's denial of prior authorization through the Medicaid program for a Technology Hub as not medically necessary, was in accordance with state laws and state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of Audrina Marino, (the "child") (DOB: [REDACTED]/2016), a participant in the Medicaid program. (Exhibit 1: Prior Authorization Request dated [REDACTED]/23)
2. CHNCT is the Department's contractor for reviewing medical requests for prior authorization of medical services and equipment under the Medicaid program. (Hearing Record)
3. The child has a medical diagnosis of Down Syndrome/Trisomy 21 syndrome, Autism Spectrum disorder, Tracheostomy tube (active, history of Tracheal reconstruction, Vascular ring repair, duodenal atresia repair, childhood asthma, alopecia, history of premature birth, history of dependence on supplemental oxygen, Gastroesophageal reflux disease, pulmonary hypertension, tracheomalacia. The child has sleep issues related to her diagnoses. She has sleep disruptions, and breathing concerns related to pulmonary conditions. The child is at risk for elopement from her room, requiring the Cubby bed as a safe alternative to easily climbed and dangerous gates. The child's medical condition requires the Appellant to monitor closely to ensure oxygenation and heart rate are normal and safe. (Exhibit 1: Prior Authorization request, Exhibit 5: Appeal Request, [REDACTED]24)

4. The child has difficulty staying and falling asleep. She exhibits sensory seeking behaviors such as repetitive self-injurious actions such as picking at her head and skin and pulling her tracheostomy tube out of her throat. She hits her head on the wall and floor purposely. The child takes off her diapers and plays with feces. She will eat fluids if she pulls out her g-tube. She wanders around the house at night. Currently, the Appellant sleeps in the child's room on the floor next to her. (Appellant's Testimony and Exhibit 5)
5. On [REDACTED] 2023, CHNCT received a prior authorization ("PA") request from [REDACTED] (the "DME Vendor") for a Cubby Safety Bed with a waterproof mattress protector and a Technology Hub ordered by [REDACTED], Pediatrician along with supporting documentation. (Exhibit 1: Prior Authorization Request dated [REDACTED] 23)
6. On [REDACTED], 2023, CHNCT performed a medical review, and the request was left pending additional information. The clinical documentation states that the child has no sleep disturbances, sleeping through the night and alone in her own bedroom and that recently had a difficult time falling asleep. CHNCT requested a letter of medical necessity by the child's pediatrician documenting the medical necessity of the request. (Exhibit 2: CHNCT, MD review, [REDACTED]/23)
7. On [REDACTED], [REDACTED], and [REDACTED], 2023, CHNCT requested additional information from the DME vendor. CHNCT did not receive additional documentation. (Hearing Record)
8. On [REDACTED], 2023, the CHNCT sent the Appellant an NOA, denying the prior authorization request for a Cubby safety bed, waterproof mattress protector, and Technology Hub. The notice stated, "We did not receive enough information from the provider to show that this good is medically necessary for your child." It further stated, [REDACTED], [REDACTED] must give us information to show that your child needs the Cubby Basic safety bed, waterproof mattress protector and Technology Hub. We asked for the information but did not get it. (Exhibit 4: NOA, [REDACTED]/23)
9. On [REDACTED] 2024, the Appellant requested an administrative hearing to appeal the denial of the Cubby Basic safety bed, waterproof mattress protector and Technology Hub. (Hearing Record)
10. On [REDACTED] 2024, CHNCT sent a letter to [REDACTED] and [REDACTED] requesting additional information to proceed with the appeal review. CHNCT requested a letter of medical necessity addressing the medical need for a Cubby Basic safety bed, waterproof mattress protector and Technology Hub. CHNCT requested clarification of discrepancies that the child has no sleep disturbances, sleeps through the night, and

sleeps alone in her bedroom and that recently had a difficult time falling asleep. (Exhibit 7; Letter to [REDACTED] and Exhibit 8: Letter to [REDACTED])

11. On [REDACTED] 2024, CHNCT received a letter of medical necessity from Outpatient Mobile Solutions. Included with the documentation from Outpatient Mobile Solutions was a letter from [REDACTED], pediatrician. The child has sleep disturbance that wakes her up throughout the night. She then roams the house when awake. If she is up by herself, she is a danger to herself due to her severe delays. She is also at risk of pulling out her trach. If she is unmonitored, she will self-harm. Sometimes if she has a bowel movement in her pullup, she will smear the feces on the walls or try to eat it. [REDACTED] requires constant monitoring via pulse ox all sleeping hours due to her tracheostomy breathing tube. (Exhibit 11: Letters of Medical Necessity, [REDACTED]/24)
12. On [REDACTED] 2024, [REDACTED] sent CHNCT a letter of medical necessity. The Appellant and the medical team have tried to address her sleep routine but due to fluctuations in circadian rhythm and medical concerns requiring airway checks, oxygen checks, and overall safety checks. They have tried baby gates, but the child can climb over the gate, which makes it a risk for injuries. The cubby bed addresses safety concerns such as preventing self-injurious behaviors, entrapment, and property destruction due to padding. The bed prevents eloping as the bed is zippered by the caregiver. The sheets prevent entrapment and possible suffocation during sleep. The remote monitoring system alerts the Appellant to the child's activities and needs. The internal monitor alerts to movement and sound changes. Any medical anomaly or waking will send an alert to the Appellant's phone. The internal video monitor is controlled by an app on the phone. It monitors a child's sleeping pattern and makes any needed adjustments. There is a two-way audio component where the child can hear the Appellant and the Appellant can speak to the child to allow rapid verbal prompting to address sleep or medical concerns. The auditory component controlled by an app on the phone utilizes preprogrammed auditory sounds and an adapted playlist to diffuse self-injurious and sensory-seeking behaviors. (Exhibit 15: Letter of Medical Necessity from [REDACTED], [REDACTED] 24)
13. The Appellant has an internet connection and smartphone needed for the implementation of the Technology Hub. (Appellant's Testimony)
14. On [REDACTED], 2024, CHNCT completed a Medical Review. The denial was partially overturned. The medical review determined the Cubby Safety Bed is medically necessary to prevent injury, illness to the child's medical conditions. The bed is to keep the child safe when she cannot be observed directly at night. It is the least costly option. She has erratic

sleep routines and is at risk for elopement from her room and engaging in self-injurious behavior. The cubby safety bed provides her with a safe environment. The review determined the Technology Hub as not medically necessary and considered it a convenience item. The Cubby Safety Bed was deemed medically necessary based on the current standard of care, society guidelines, and peer review literature. (Exhibit 16: Medical Review Request)

15. On [REDACTED], 2024, CHNCT determined a partial overturn of the denial based on resubmitted appeals documents and clarification that the child has erratic sleep routines, at risk for elopement and engaging in self-injurious behaviors. The denial of the technology Hub was upheld because it includes a camera that requires the use of a Smartphone or tablet with a cellular or internet connection for use with a monitoring software application. CHNCT indicated that smartphones or tablets with an internet connection are not mainly used for a medical purpose, so the technology hub does not meet the definition of durable medical equipment and cannot be approved. (Exhibit 17: Medical Review)
16. On [REDACTED] 2024, CHNCT sent the Appellant a determination letter. CHNCT approved the Cubby Basic safety bed and waterproof mattress protector. CHNCT upheld its denial for the Technology Hub because the information does not support the medical necessity for the item. It includes a camera that requires the use of a smartphone or tablet with a cellular or internet connection for use with a monitory software application. Smartphones or tablets with a cellular or internet connection are not mainly used for a medical purpose. The Technology Hub does not meet the definition of Durable medical equipment and cannot be approved. (Exhibit 18: Determination Letter, [REDACTED]/24)
17. 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] 2024, with a decision due date of [REDACTED] 2024. However, the hearing, which was originally scheduled for [REDACTED] 2024, was rescheduled for [REDACTED] 2024, at the request of the Appellant, which caused a 14-day delay. Because this 14 day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2024, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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. 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. Stats. § 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)

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)

3. State statute provides as follows:

“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.

Conn. Gen. Stat. § 17b-290

Section 17b-262-672 of the Regulations of the Connecticut State Agencies (“Regs., Conn. State Agencies”) provides as follows:

Sections 17b-262-672 through 17b-262-682 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 (CGS).

State statute provides in pertinent part: “The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program.” Conn. Gen. Stat. § 17b-262

CHNCT incorrectly determined that the Technology Hub does not meet the criteria as Durable Medical Equipment. While the rationale for the denial of the Technology Hub is primarily because it requires the use of a smartphone or tablet with an internet or cellular connection for monitoring via a software application and does not customarily fit the criteria defined by statute and regulation as Durable Medical Equipment, the application is necessary to operate the bed’s sensory and monitoring features can be considered as Durable Medical Equipment.

The Cubby Safety Bed and Technology Hub are technology compatible and ideally work best together. While the internet and smartphones have many purposes, including non-medical purposes, the application in which to operate the Cubby Bed's sensory and monitoring features can be considered as Durable Medical Equipment. The application can withstand repeated use; its sensory and monitoring features are designed to assist with the child's medical sleep irregularities, which allows her to remotely be provided with a safe environment for the purpose of sleep, and it is not disposable. The presented testimony and evidence clearly demonstrate the appropriateness of the Technology Hub that can be used to serve for a medical purpose compatible with the approved Cubby Safety Bed as medically necessary.

“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.” Regs., Conn. State Agencies § 17b-262-673(20)

State regulation provides as follows:

Payment for DME and related equipment is available for Medicaid clients who have a medical need for such equipment which meets the department's definition of DME when the item is prescribed by a licensed practitioner, subject to the conditions and limitations set forth in sections 17b-262-672 to 17b-262-682, inclusive, of the Regulations of Connecticut State Agencies.

Regs., Conn. State Agencies § 17b-262-675

“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.” Regs., Conn. State Agencies § 17b-262-676(a)(1)

State regulation provides as follows:

The department requires prior authorization for: 1) any item identified on the department's published fee schedule as requiring prior authorization; and 2) any item requested under section 17b-262-676(a)(4) of the Regulations of Connecticut State Agencies.

Regs., Conn. State Agencies § 17b-262-678(b)

4. State regulation provides as follows:

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.

Regs., Conn. State Agencies § 17b-262-676(a)(4)

“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.” Regs., Conn. State Agencies § 17b-262-676(b)(1)

CHNCT incorrectly denied the prior authorization request for the Technology Hub as not medically necessary, as the child is a Medicaid recipient who has a medical need for such equipment. The supporting testimony and evidence presented at the hearing demonstrates the Technology Hub meets the definition of Durable Medical Equipment and Medically Necessary, as the Hub can help the child with her ability to maintain necessary sleep in a safe, secure, and calming environment, allowing for self-regulation to attain his health and promote a safe and independent functioning. The Technology Hub is appropriate as it can promote sleep and relaxation with the available music, soothing sounds, and light. The monitor allows the Appellant to have the ability to monitor her child remotely through the camera system to help regulate the child's sleep environment without entering the room. This promotes child safety and independent functioning with the verbal feedback to encourage sleep, prevent-injury, prevent self-injurious behaviors and elopement. It can help to allow the verbal redirection when the child awakens during sleep and assist with the monitoring of the child's needs during his sleep hours, increasing opportunity for restful sleep and health in a safe environment.

DECISION

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

ORDER

1. CHNCT shall rescind its denial of the [REDACTED] [REDACTED] 2023, prior authorization request for the Technology Hub for the minor child.
2. CHNCT shall approve the [REDACTED] 2023, prior authorization request for the Technology Hub for the minor child and notify all appropriate parties.
3. Compliance is due to the undersigned no later than [REDACTED], 2024.

Scott Zuckerman
Scott Zuckerman
Fair Hearing Officer

CC: appeals@chnct.org
Fatmata Williams, DSS

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.