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

[redacted], 2024
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # 236555

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2024, the Department of Social Services (the "Department") Connecticut Medical Assistance Drug Utilization Review Program sent [redacted] (the "Appellant") a notice indicating that she would be restricted to using only one pharmacy when having her prescriptions filled.

On [redacted] 2024, the Appellant requested an administrative hearing to contest the Department's decision to restrict her prescriptions from being filled by one pharmacy.

On [redacted] 2024, the Office of Legal Counsel, Regulations and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2024.

On [redacted], 2024, 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 telephonically.

The following individuals attended the hearing:

[redacted], Appellant
Jason Gott, Pharmacy Consultant for the Department
Heather Kissinger, Acentra Health, for the Department
Scott Zuckerman, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether the Department's [redacted], 2024, action to restrict the Appellant to one pharmacy with respect to using her Connecticut Medical Assistance

card for filing her controlled substances prescriptions is supported by federal and state statutes.

FINDINGS OF FACT

1. On or about [redacted] 2023, the Department, through its contractor, Acentra Health, conducted a routine review of the Appellant's drug utilization. A letter was sent to the Appellant and her prescribers informing them of the Appellant receiving several controlled substances from multiple prescribers and pharmacies. The letter sent was educational and meant to modify the Appellant's controlled substance use. The letter stated that if not modified the Appellant may be restricted to one pharmacy. (Hearing Summary and Department's testimony)

2. On or about [redacted] 2023, the Department conducted a review of the Appellant's drug utilization. A warning letter was sent to the Appellant and her prescribers. The letter was the second step educational letter meant to modify the Appellant's controlled substance abuse. The letter stated that if not modified, the Appellant may be restricted to one pharmacy. (Hearing Summary and Department's testimony)

3. On [redacted] 2024, the Department conducted a routine review of the Appellant's drug utilization, which looked back at the Appellant's drug utilization from [redacted] 2023, through [redacted] 2024. Based on the review conducted by Acentra Health's medical review committee, it was recommended to restrict the Appellant to a single pharmacy for a one-year period. The reviewers noted that the Appellant is receiving duplicate high-dose Opioid controlled substance prescriptions concurrent with methadone treatment for opioid dependence from a methadone clinic. This can increase the risk of decreased respirations, sedation, and potential overdose. She has a diagnosis of falling which could indicate the addictive effects of opioids. It is in her best interest and safety to be monitored by a single pharmacy. (Exhibit A: Drug / Diagnosis Profile [redacted]24)

4. The Appellant's date of birth is [redacted] 1976. (Exhibit A: Drug/Diagnosis Profile, [redacted]/24)

5. The Appellant is a Connecticut Medical Assistance program participant. (Hearing Summary)

6. Acentra Health oversees the Connecticut Medical Assistance Drug Utilization Review Program and is the Department's Retrospective Drug Utilization Review contractor for the Connecticut Medical Assistance Drug Utilization Review Program. (Hearing Summary and Department's Testimony)

7. Acentra reviews a random selection of patients who overutilize controlled substances. (Hearing Summary)

8. Acentra Health reviews the prescription usage of all Connecticut Medical Assistance

program participants that meet a specific profile associated with type, usage, and frequency and determines a risk score concerning controlled substance usage. (Hearing Summary and Department's Testimony)

9. The medical review committee for this review consisted of 3 pharmacists and 1 registered nurse who examined the Appellant's medical history, evaluated the results, and then decided a pharmacy restriction was necessary for a one-year period. (Hearing Summary and Department's Testimony)

10. The Appellant's review and restriction are based on a review process using the same criteria and risk scores for all clients to determine if a restriction is warranted. (Hearing Summary)

11. The Appellant has utilized five (5) prescribers from two (2) different practices to obtain prescriptions for controlled substances from [redacted] 2023 through [redacted] 2024. (Exhibit E: Findings Based on Drug Utilization Review)

12. From [redacted] 2023 through [redacted] 2024, the Appellant filled the following controlled substances prescriptions: Oxycodone 20 mg (120 mg/day); Oxycontin 60 mg (120 mg/day); Oxycodone 15 mg (90 mg/day); Oxycodone 30 mg (60 mg/day) and Lorazepam 0.5 mg (1mg/day one-time fill) (Exhibit E)

13. From [redacted]2023 through [redacted]2024, the Appellant filled the following non – controlled substance prescriptions: Tizanidine 2 mg, a muscle relaxant with sedative properties. (Exhibit E)

14. From [redacted] 2023, through [redacted], 2024, the Appellant received 49 diagnoses occurrence of opioid dependence billed from [redacted] in [redacted], CT for methadone Medication Assisted Treatment ('MAT") administration for treatment of opioid use disorder ("OUD"). The Appellant receives Methadone for OUD with concurrent opioid prescription medication with no clear diagnosis for chronic utilization. The CDC recommendation for prescribing opioids in patients with substance abuse disorder states in part, "Patients with substance use disorders are likely to experience greater risks for opioid use disorder and overdose than persons without these conditions". (Exhibit E)

15. There are set protocols in place that flag patients for review for the Pharmacy Restriction Program. On a monthly basis, there is a review of 800 recipients enrolled in Medicaid that are flagged that are receiving a 120 supply or more in the most recent 90-day period. We take into account all of their prescription controlled substances at the pharmacy level, not including what is being received at the Methadone Clinic. If a patient exceeds a 120-day supply of opioids in the most recent 90-day review period it is flagged for review. (Acentra Health's testimony)

16. From [redacted] 2023, through [redacted], 2024, the Appellant received a 160-day supply of controlled substances. She exceeded the 120-day supply mark. (Acentra's Health testimony)

17. From [redacted] 2023 through [redacted] 2024, the Appellant's Morphine Milligram Equivalent (MME) ranges from 90 – 495 MME. This only considers the prescription opioids and not the Methadone treatment. The CDC recommends the following in part, "Clinicians should generally avoid unnecessary dosage increases, use caution when increasing opioid dosages, and increase the dosage by the smallest practical amount because overdose risk increases with increases in opioid dosage. Before increasing total opioid dosage to. 50 MME / day, clinicians should pause, considering that dosage increases to > 50 MME / day are unlikely to provide substantially improved pain control for most patients while overdose risk increases with dosage, and carefully reassess evidence of benefits and risks. If a patient's opioid dosage for all sources of opioids combined reaches or exceeds 50 MME / day, clinicians should implement additional precautions, including increased frequency of follow–up and offer naloxone and overdose prevention education to both the patient and the patient's household members. Additional dosage increases beyond 50 MME / day are progressively more likely to yield diminishing returns in benefits for pain and function relative to risks to patients". (Exhibit E and Exhibit I: Interchange printout)

18. From [redacted] 2023 through [redacted] 2024, the Appellant received 49 diagnosis occurrences of opioid dependence. (Exhibit E)

19. The Appellant is receiving Prescription opioids, medication-assisted treatment opioids, and muscle relaxants, which when used at the same time can have additive effects. (Exhibit E)

20. In its drug utilization review, Acentra made the following recommendations: 1) Restrict the Appellant to a single pharmacy. 2) If the Appellant's pharmacy is temporarily out of a medication she needs, change the pharmacy location for a one-day period to a pharmacy that has the medication in stock, but does not allow the Appellant to utilize multiple pharmacies for controlled substances, and 3) non-controlled substances can be filled at any pharmacy of the client's choice, pharmacy restriction applies only to controlled substance prescriptions. (Exhibit E)

21. There is a procedure in place that would allow the Appellant to change to a different pharmacy should her current pharmacy not have a medication in stock. The Appellant would call Acentra Health's toll-free number and fax a signed request to change the pharmacy. (Department's representative's Testimony)

22. On [redacted] 2024, the Department mailed the Appellant a letter informing the Appellant of a restriction to one pharmacy. The letter specified the Appellant would be restricted to using only one pharmacy when having her prescriptions for controlled substances filled under the Connecticut Medical Assistance program. (Exhibit D: CT Medical Assistance Drug Utilization Review Program notice dated [redacted]/24 and

Hearing summary)

23. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be rendered within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted] 2024. Therefore, this decision is due no later than [redacted] 2024, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 (6) 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. Social Security Act § 1927 (g)(1)(A) PAYMENT FOR COVERED OUTPATIENT DRUGS. In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

   Social Security Act § 1927 (g)(2)(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

   The Department is required to implement a program for drug use review with respect to the administration of the Connecticut Medical Assistance Program, or Medicaid program.

   The Department did not exceed its authority when it reviewed the Appellant's prescription usage.

3. Connecticut General Statutes § 17b-259b provides (a) 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.

Connecticut General Statutes § 17b-259b (b) provides 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.

4. Connecticut General Statutes § 21a-266 provides (a) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of a controlled substance (1) by fraud, deceit, misrepresentation or subterfuge, or (2) by the forgery or alteration of a prescription or of any written order, or (3) by the concealment of a material fact, or (4) by the use of a false name or the giving of a false address (b) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance, or unlawfully to procure the administration of any such substance, shall not be deemed a privileged communication. (c) No person shall willfully make a false statement in any prescription, order, report or record required by this part. (d) No person shall, for obtaining a controlled substance, falsely assume the title of, or claim to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, podiatrist or other authorized person. (e) No person shall make or utter any false or forged prescription or false or forged written order. (f) No person shall affix any false or forged label to a package or receptacle containing controlled substances. (g) No person shall alter an otherwise valid written order or prescription except upon express authorization of the issuing practitioner. (h) No person who, in the course of treatment, is supplied with controlled substances or a prescription therefor by one practitioner shall, knowingly, without disclosing such fact, accept during such treatment controlled substances or a prescription therefor from another practitioner with intent to obtain a quantity of controlled substances for abuse of such substances. (i) The provisions of subsections (a), (d) and (e) shall not apply to manufacturers of controlled substances, or their agents or employees, when such manufacturers or their authorized agents or employees are actually engaged in investigative activities directed toward

safeguarding of the manufacturer's trademark, provided prior written approval for such investigative activities is obtained from the Commissioner of Consumer Protection.

5. Connecticut General Statutes § 17b-275 provides for the Physician and pharmacy lock-in procedure. The Commissioner of Social Services shall implement, not later than October 1, 1984, a physician and pharmacy lock-in procedure to restrict the use of the health care delivery system by medical assistance recipients who are determined by the commissioner to have utilized medical services or items at a frequency or amount that is not medically necessary. The commissioner shall establish criteria and a case review system in order to make such determination. The commissioner shall require such recipients for a reasonable period of time to obtain medical services or items only from designated providers provided (1) the department gives the recipient notice and an opportunity for a hearing, in accordance with procedures established by the department, before such restrictions are imposed and (2) the department assures that the recipient has reasonable access, taking into account geographic location and reasonable travel time, to medical services of adequate quality.

   The Department correctly determined that the Appellant was subject to the pharmacy lock-in procedure as described in section 17b-275 of the Connecticut General Statutes.

   The Department's [redacted], 2024, action to restrict the Appellant to using only one pharmacy for filling her Medicaid-covered controlled substance prescriptions is supported by federal and state statutes.

DECISION

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

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Cc: Jason Gott, Medical Care Administration, DSS-CO
Herman Kranc, Manager, 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.