

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

██████████, 2024
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2024, 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”), mother of ██████████, (the “child”) a Notice of Action for Denied Services or Goods (“NOA”) denying authorization for a Cubby Basic Safety Bed with lockable wheels.

On ██████████ 2024, the Appellant requested an administrative hearing to contest CHNCT’s decision to deny the prior authorization request for the Cubby Basic Safety Bed with lockable wheels.

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

On [REDACTED] 2024, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals attended the hearing:

[REDACTED] Appellant
Michelle Rusgrove, CHNCT Appeals and Grievances Analyst
Joseph Alexander, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether CHNCT's denial of prior authorization through the Medicaid program for a Cubby Basic Safety Bed with lockable wheels as not medically necessary, was in accordance with state laws and state regulations.

FINDINGS OF FACT

1. The Appellant is the mother of [REDACTED] (the "child") (DOB: [REDACTED]), a participant in the Medicaid program. (Exhibit 1: Outpatient Prior Authorization Form)
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 Autistic Disorder (classified as severe), is non-verbal, exhibits self-harming behaviors and is an elopement risk. (hearing Record, Exhibit 1: Prior Authorization Form (supporting document), Exhibit 4: Administrative Hearing Request Form)
4. On [REDACTED] 2024, CHNCT received a prior authorization ("PA") request from [REDACTED] (the "DME Vendor") for a Cubby Basic Safety Bed with lockable wheels ordered by the office of [REDACTED] (general pediatrician), along with supporting documentation. (Exhibit 1: Prior Authorization Request Form)

5. On [REDACTED] 2024, [REDACTED] from the office of [REDACTED] drafted a letter of recommendation for the Cubby Basic Safety Bed with lockable wheels. The letter details the medical necessity of the Cubby Basic Safety Bed with lockable wheels for the following reasons: (1) the child is non-verbal and exhibits self-harming behaviors such as banging her head against the floor and other objects, (2) she is able to climb out of a bed with rails and open doors and wanders frequently, (3) the sleep safe bed provides padding and safety sides, (4) the enclosed tension canopy of the cubby bed fully encloses the bed allowing her to move around inside but all the surfaces and tensions to keep her 4-6" away from any hard parts of the steel frame, (5) the doors and canopy provide a secure environment to keep her safe from self-injurious head banging behaviors, (6) the safety zippers tuck into pockets so it cannot be unzipped from the inside, (7) the tension of the canopy can be adjusted so there is no risk of her chewing on the foam padding or causing damage to the bed, (8) the option of the full fabric doors allows for the environment to be dark, creating a cozy feeling of security for better sleep, (9) the optional camera is linked to an app to alert her mother of any movement or sounds the child makes to quickly check on her. (Exhibit 1: Outpatient Prior Authorization Form Supporting Document)

6. On [REDACTED], 2024, CHNCT performed a medical review, and the request was denied because, "The submitted documentation states she (the child) is able to climb out of bed and open doors and is an elopement risk. It also states that she has difficulty falling asleep but does not awaken frequently and sleeps 6-7 hours. This bed is requested for safety overnight because she hits her head sometimes, to allow safe sleeping at night, and to promote feeling of to keep her calm. There is no scientific evidence in the peer-reviewed medical literature to support that the Cubby Bed will improve this child's sleep or that it is a safe environment for sleep. This use of the equipment is not consistent with generally accepted standards of care. Therefore, the Cubby Bed cannot be approved." (Exhibit 2: CHNCT, MD Review [REDACTED])

7. On [REDACTED], 2024, CHNCT issued a Notice of Action for Denied Services or Goods. (Exhibit 3: Notice of Action)

8. On [REDACTED], 2024, the OLCRAH received a request for an administrative hearing from the Appellant. The request states, "[REDACTED] does not currently sleep 6-7 hours straight, the bed has the option of zipping up and this can ensure she does not leave her room/safety in the middle of the night, and I can keep her safe." (Exhibit 4: Administrative Hearing Request Form)

9. On [REDACTED] 2024, CHNCT submitted a Medical Record Request to [REDACTED] requesting (1) scientific evidence in the peer-reviewed medical literature to support that the Cubby Bed will improve the child's sleep or that it is a safe environment for sleep, and (2) a letter of Medical Necessity supporting the medical need for the Cubby Basic Safety Bed with lockable wheels (E1399) for the child. (Exhibit 6: Medical Record Request to [REDACTED])
10. On [REDACTED], 2024, CHNCT submitted a second Medical Record Request to [REDACTED] requesting the same information/documentation that was requested on the [REDACTED], 2024, submission. (Exhibit 7: Medical Record Request to [REDACTED])
11. On [REDACTED], 2024, CHNCT submitted a Medical Record Request to [REDACTED] requesting the same information as the two requests sent to [REDACTED]. (Exhibit 8: Medical Record Request to [REDACTED])
12. On [REDACTED], 2024, CHNCT completed a second medical review in response to the Appellant's request for an administrative hearing. The review concluded the Cubby Basic Safety Bed with lockable wheels was not medically necessary because it is "Not 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." (Exhibit 10: Medical Review Request).
13. On [REDACTED] 2024, a Determination Letter detailing the denial of the Cubby Basic Safety Bed with lockable wheels was sent to the Appellant. (Exhibit 12: Determination Letter)
14. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2024, making this decision due no later than [REDACTED], 2024.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes (“Conn. Gen. Stat.”) 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.

“The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department.” Conn. Gen. Stat. § 17b-261b

2. Conn. Gen. Stat. § 17b-259b (a) provides, “For the purposes of the administration of the medical assistance programs by the Department, “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.

The Appellant, through submission of the letter from the office of [REDACTED] [REDACTED] has demonstrated the Cubby Basic Safety Bed with lockable wheels is medically necessary to ameliorate the child’s condition by providing her with a safe environment to sleep in which she can be contained without the risk of self-injury or elopement.

3. Conn. Gen. Stat. § 17b-259b(b) provides 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 requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity.”
4. Conn. Gen. Stat. § 17b-259b(d) provides that, “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.
5. Conn. Gen. Stat. § 17b-290 provides for the definition of durable medical equipment as, “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 not useful to a person in the absence of an illness or injury; and (D) is not disposable.

The Basic Safety Cubby Bed with lockable wheels meets the criteria to be defined as durable medical equipment.

6. Section 17b-262-673(2) of the Regulations of the Connecticut State Agencies (“Regs., Conn. State Agencies”) specifies 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.”
7. Regs., Conn. State Agencies § 17b-262-675 provides that 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.

8. Regs., Conn. State Agencies § 17b-262-676(a)(1) provides, “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.”
9. Regs., Conn. State Agencies § 17b-262-678(b) provides that 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.
10. Regs., Conn. State Agencies § 17b-262-676(a)(4) provides 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.
11. Regs., Conn. State Agencies § 17b-262-676(b)(1) provides, “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.”

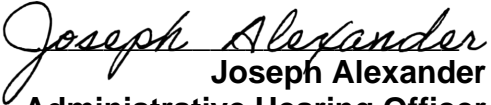
CHNCT incorrectly denied the PA request for the Cubby Basic Safety Bed with lockable wheels as not medically necessary, as the child is a Medicaid recipient who has a medical need for such equipment. The supporting testimony and evidence from the hearing demonstrated the Cubby Basic Safety Bed with lockable wheels meets the definition of Durable Medical Equipment and is medically necessary, as this bed, based on its features and design, can ameliorate the child's condition by providing her with a safe environment to sleep in which she can be contained without the risk of self-injury or elopement.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. CHNCT shall rescind its denial of the [REDACTED] 2024, prior authorization request for a Cubby Basic Safety Bed with lockable wheels for the minor child.
2. CHNCT shall approve the [REDACTED] 2024, prior authorization request for the Cubby Basic Safety Bed with lockable wheels for the minor child and notify all appropriate parties.
3. Compliance with this order is due to the undersigned no later than [REDACTED] 2024.


Joseph Alexander
Administrative 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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with **45** days of the mailing of this decision, or **45** days after the agency denies 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 06105-3725. 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 her 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.