

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

██████████ 2018
Signature Confirmation

Client ID # ██████████
Request # 110595

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (“the Department”) through its Administrative Services Organization, Community Health Network of Connecticut (“CHNCT”) denied ██████████ (the “Appellant”) request for an additional 49 hours of complex nursing service from ██████████ (the “Provider,”) for her grandchild, ██████████ (“██████████”). CHNCT denied the additional 49 hours per week of complex nursing services because the clinical information does not show a change in ██████████ medical condition and it does not show a medical need for an increase in nursing services.

On ██████████ 2017, Appellant requested an administrative hearing to contest the denial of an authorization of the additional 49 hours of complex nursing services.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████ 2018, 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 were present at the hearing:

██████████, Appellant
██████████, Appellant’s Witness and Spouse

Fabiola Goin, RN, Appeals and Grievances Analyst, CHNCT Representative
 Sybil Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's request for an additional 49 hours per week of complex nursing services is correct.

FINDINGS OF FACT

1. [REDACTED] is a participant in the Medicaid program as administered by the Department (Hearing Record)
2. CHNCT is the Department's contractor for the purpose of administering the Medicaid Program. (Hearing Record)
3. The Appellant is the [REDACTED] paternal grandmother and authorized representative. (Appellant's Testimony, Hearing Record, Exhibit 14: Medical Review Request, [REDACTED])
4. [REDACTED], MD (the "treating pediatrician") is [REDACTED] treating pediatrician. (Appellant's Testimony, Exhibit 11)
5. [REDACTED], MD of Hartford, Connecticut (the "treating gastroenterologist") is [REDACTED] treating gastroenterologist. (Appellant's Testimony)
6. [REDACTED], MD of [REDACTED] Connecticut (the "treating developmental and behavioral pediatrician") is [REDACTED] treating developmental and behavioral specialist. (Appellant's Testimony)
7. [REDACTED], MD (the "treating neurologist") of [REDACTED] in [REDACTED] Connecticut is [REDACTED] treating neurologist. (Appellant's Testimony)
8. [REDACTED], MD (the "treating orthopedic surgeon") of [REDACTED] Connecticut is [REDACTED] treating orthopedic surgeon. (Appellant's Testimony)
9. [REDACTED] of [REDACTED], Connecticut provides [REDACTED] physical therapy and occupational therapy two times per week. (Appellant's Testimony)
10. [REDACTED] is a 9 year old ([REDACTED]) male with a medical history that includes [REDACTED] disorder, [REDACTED], short bowel syndrome associated with [REDACTED]

extreme prematurity, intellectual disability, mild bronchial asthma, delayed developmental milestones and gastrostomy tube dependence. (Exhibit 1, Exhibit 11: Letter of Medical Necessity from [REDACTED], MD, [REDACTED], Exhibit 13: Letter of Medical Necessity from [REDACTED], MD, [REDACTED])

11. [REDACTED] is non-verbal, but can understand most simple command and express wants and needs through the use of a communication book with pictures. He also knows some sign language. (Exhibit 1)
12. [REDACTED] is potty-trained with rare urine accidents, but often needs to be reminded to use the bathroom. (Appellant's Testimony, Exhibit 1)
13. On [REDACTED], 2017, [REDACTED] had a panendoscopy biopsy, EGD, upper endoscopy video capsule endoscopy colonoscopy with biopsies completed at the [REDACTED] because he has a history of anemia and anastomotic ulcer and the anemia has returned with acute gastroenteritis like symptoms. The findings indicated that he has a large anastomotic ulcer. (Exhibit A: Letter from [REDACTED], MD of [REDACTED], [REDACTED])
14. [REDACTED] diagnosis of a large anastomotic ulceration requires intestinal rehabilitation, diet changes and frequent medication checks. (Exhibit 11)
15. [REDACTED] is being treated with frequent follow up, monitoring of blood counts, IV iron infusions and an antigen restricted diet. He has ongoing gastrointestinal bleeds despite the treatment and use of the medication budesonide. (Exhibit 13)
16. On [REDACTED] 2017, CHNCT received a prior authorization request from the Provider for an additional 7 hours per day of overnight complex nursing services to monitor [REDACTED] continuous gastrostomy tube feeds for the hours of 10:00 p.m. through 5:00 a.m. (Exhibit 1: Authorization Request, 1 [REDACTED])
17. On [REDACTED], 2017, [REDACTED]'s treating pediatrician indicated that he needs a PDN overnight to assess and provide care which includes: administer enteral feeds via the gastrostomy tube, assess for signs of bleeding from the anastomotic ulcer, which includes vital signs, abdominal exam, feeding tolerance and assess and assist with nocturnal stools. (Exhibit 13: Letter from [REDACTED], M.D., [REDACTED])
18. [REDACTED] currently receives 48 hours of per week of complex nursing services in the morning from 5:30 a.m. to 8:00 a.m. (before school) and from 3:30 p.m. to 8:30 p.m. (after school) and on Sundays. (Exhibit 3: Medical Review, [REDACTED] Exhibit 14: Medical Review Request, [REDACTED])
19. Complex nursing is a higher skilled function required for a person who is chronically ill and requires continuous intervention and assessment. (CHNCT Representative's Testimony)

29. [REDACTED] frequently dislodges his gastrostomy tube during his sleep and gets out of bed and walks around, pulling the tubing loose and leaking formula in his bedroom. (Exhibit 11)
30. When [REDACTED] gastrostomy tube becomes dislodged during the night he misses a significant number of calories and due to his short gut syndrome and volume intolerance, it is not possible to replace the lost feeds and calories during his waking hours. (Exhibit 11)
31. [REDACTED] gastrostomy tube is intact with no signs of infection. (Exhibit 10: Clinical Documentation from [REDACTED])
32. Due to sensory issues related to autism, [REDACTED] is unable to tolerate a belly band that would help to secure the tubing and prevent dislodgement of his gastrostomy tube. (Exhibit 11)
33. The gastrostomy tube belt makes [REDACTED] sweat more during the night and increases his agitation resulting in behavioral issues. (Exhibit 1)
34. The belt did not prevent the gastrostomy tube from becoming disconnected during the night. (Exhibit: 1)
35. Due to [REDACTED] autism and cognitive impairments, he is not able to communicate his needs overnight or able to manage his own needs. (Exhibit 5)
36. [REDACTED] has global developmental delays and autism that complicate his ability to comprehend safety within his environment. (Exhibit 11)
37. [REDACTED] has poor coordination and balance. (Exhibit 1)
38. [REDACTED] requires adult supervision 24 hours per day. (Appellant's Testimony, Exhibit 1)
39. [REDACTED] attends [REDACTED] School in [REDACTED] daily. (Exhibit 1, Exhibit 2)
40. [REDACTED] grandparents use a monitor so they can monitor him in his bedroom throughout the night. (Appellant's Witness' Testimony)
41. The treating developmental and behavioral pediatrician recommends that [REDACTED] have access to overnight care supervision nightly and submitted a medical necessity letter for "overnight nursing/trained PCA care/supervision." (Exhibit 5: Letter of Medical Necessity from [REDACTED], [REDACTED])
42. CHNCT determined that monitoring a gastrostomy tube does not require the skills of a licensed nurse. (CHNCT Representative's Testimony, Hearing Summary)

43. On [REDACTED], 2017 CHNCT sent the Appellant a NOA denying the Appellant's request for additional seven hours per day of extended complex nursing services for dates of service [REDACTED], 2017 through [REDACTED], 2018 because this is not the right amount of services for your child. The notice also indicated that the provider request for an additional seven hours of extended nursing services per day so the nurse can watch your child's feeding tube while he sleeps and the clinical information sent in with this request shows there has been no change to your child's medical condition. (Exhibit 4: Notice of Action, [REDACTED])
44. On [REDACTED] 2017, the Department received the Appellant's request for an administrative hearing. (Exhibit 5: Administrative Hearing Request, [REDACTED])
45. On [REDACTED] 2017, CHNCT denied the Appellant's request for an expedited review of her appeal because [REDACTED] medical condition does not appear to be one that will jeopardize his life or health or his ability to attain, maintain or regain maximum function. (Exhibit 6: Non-Expedited Letter, [REDACTED])

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department as the state agency to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. The Commissioner may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.
3. 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. Conn. Gen. Stat. § 17b-259b (a)

4. CHNCT was correct when it denied the prior authorization for an additional 49 hours per week of complex nursing services hours to monitor [REDACTED] overnight while he receives continuous feeding through his gastrostomy tube because the care can be provided by a trained PCA and does not require the skill of a licensed nurse.
5. CHNCT was correct to deny prior authorization for 49 additional hours of extended complex nursing services for [REDACTED] as not medically necessary because it is not clinically appropriate in terms and type.

DISCUSSION

CHNCT denied the Appellant's request for 49 additional hours of extended complex nursing services because it is not clinically appropriate in terms and type. [REDACTED] treating developmental and behavioral pediatrician indicated in his letter of medical necessity on [REDACTED] 2017, that the overnight care could be provided by a trained PCA. CHNCT indicates that complex nursing is a higher skilled function required for a person who is chronically ill and requires continuous intervention and assessment. [REDACTED] medical condition due to short gut syndrome is chronic and now requires additional changes in his nutritional needs (overnight feedings) and assessment due to the anastomotic ulcer which has caused ongoing intestinal bleeds and anemia. The evidence indicates that he does not require complex nursing services overnight because the services can be provided by a trained PCA.

DECISION

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


Sybil Hardy
Hearing Officer

Pc: appeals@chnct.org
Fatmata Williams

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, 55 Elm Street, 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.