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

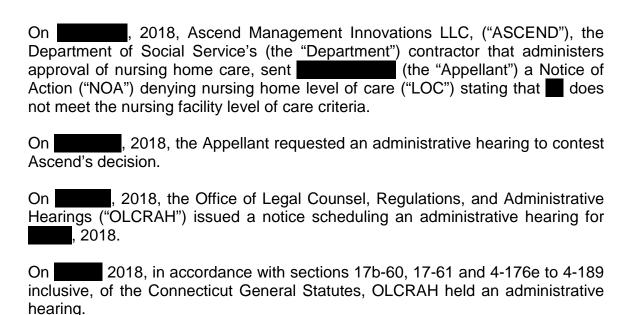
Client #	
Request #	#

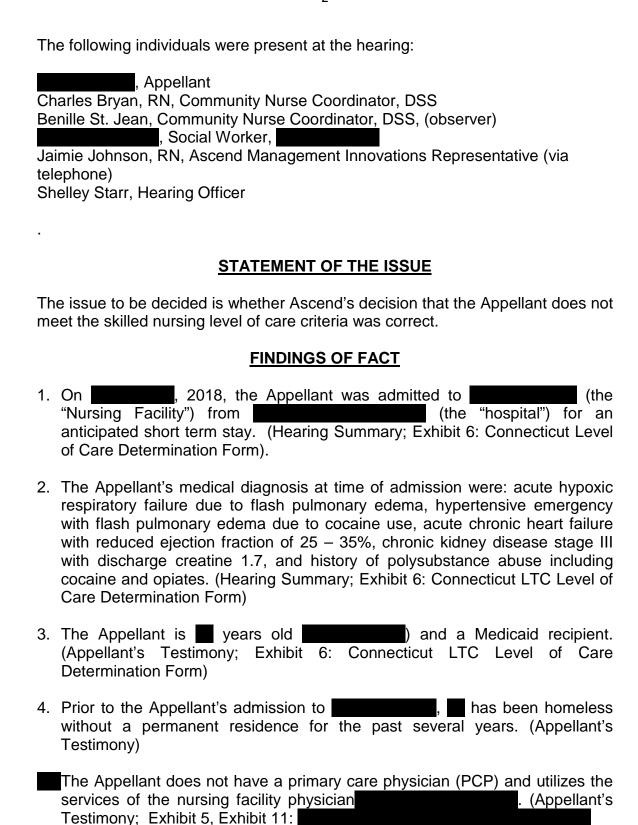
NOTICE OF DECISION

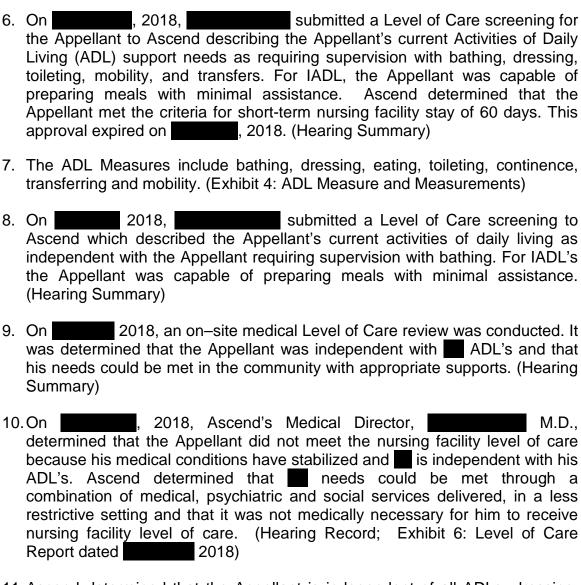
PARTY



PROCEDURAL BACKGROUND







- 11. Ascend determined that the Appellant is independent of all ADLs: dressing, eating, toileting, continence, transferring and mobility. The Appellant requires assistance with bathing activity. (Hearing Summary; Exhibit 5: 2018 Notice of Action; Exhibit 6: Level of Care Report dated 2018.)
- 12. The Appellant does not require the use of any mobility devices or equipment. (Appellant's Testimony; Exhibit 6: Level of Care Report)
- 13. The Appellant is capable of preparing meals with minimal assistance. (Appellant's Testimony; Exhibit 6: Level of Care Report)
- 14. The Appellant is fully oriented to self, place, time and situation, and does not need prompting or cueing. (Appellant's Testimony; Exhibit 6: Level of Care Report)

- 15. The Appellant solves problems and makes decisions with minimal assistance. (Exhibit 6: Level of Care Report)
- 16. The Appellant communicates information intelligibly and understands information conveyed without assistance. (Exhibit 6: Level of Care Report)
- 17. The Appellant has no problems with his vision. (Exhibit 6 Level of Care Report)
- 18. The Appellant has no problems related to his behaviors due to corroborated dementia. (Exhibit 6: Level of Care Report)
- 19. The Appellant does not require the continuous and intensive nursing services that are delivered at the level of the Nursing Facility. (Hearing Record)

CONCLUSIONS OF LAW

- Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
- 2. State regulations provide that "the department shall pay for an admission that is medically necessary and medically appropriate as evidenced by the following:
 - (1) certification by a licensed practitioner that a client admitted to a nursing facility meets the criteria outlined in section 19-13-D8t(d)(1) of the Regulations of Connecticut State Agencies. This certification of the need for care shall be made prior to the department's authorization of payment. The licensed practitioner shall use and sign all forms specified by the department;
 - (2) the department's evaluation and written authorization of the client's need for nursing facility services as ordered by the licensed practitioner;
 - (3) a health screen for clients eligible for the Connecticut Home Care Program for Elders as described in section 17b-342-4(a) of the Regulations of Connecticut State Agencies;
 - (4) a preadmission MI/MR screen signed by the department; or an exemption form, in accordance with 42 CFR 483.106(b), as amended

- from time to time, for any hospital discharge, readmission or transfer for which a preadmission MI/MR screen was not completed; and
- (5) a preadmission screening level II evaluation for any individual suspected of having mental illness or mental retardation as identified by the preadmission MI/MR screen." Conn. Agencies Regs. Section 17b-262-707 (a).
- 3. State regulations provide that "Patients shall be admitted to the facility only after a physician certifies the following:
 - (i) That a patient admitted to a chronic and convalescent nursing home has uncontrolled and/or unstable conditions requiring continuous skilled nursing services and /or nursing supervision or has a chronic condition requiring substantial assistance with personal care, on a daily basis."

Conn. Agencies Regs. § 19-13-D8t(d)(1)(A).

Section 17b-259b of the Connecticut General Statures states that "Medically necessary" and "medical necessity" defined. Notice of denial of services. Regulations. (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. (b) 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. (c) Upon denial of a request for authorization of services based

on medical necessity, the individual shall be notified that, upon request, the Department of Social Services shall provide a copy of the specific guideline or criteria, or portion thereof, other than the medical necessity definition provided in subsection (a) of this section, that was considered by the department or an entity acting on behalf of the department in making the determination of medical necessity.

- 5. Ascend correctly determined that the Appellant is independent with ADLs and his needs could be met through a combination of social and professional services outside of the nursing facility setting.
- 6. Ascend correctly determined that the Appellant does not have a chronic medical condition requiring nursing facility level of care.
- 7. Ascend correctly determined that it is not clinically appropriate that the Appellant reside in a nursing facility.
- Ascend correctly determined that nursing facility services are not medically necessary for the Appellant and correctly issued the Appellant a Notice of Action denying nursing facility level of care.

DECISION

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

Shelley/Starr Hearing Officer

cc: Charles Bryan RN, Community Options Unit, DSS Central Office Angela Gagen, Ascend Joi Shaw, Ascend Connie Tanner, Ascend Jaime Johnson, Ascend Facility Administrator,

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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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 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 06105-3725. 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 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.