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

[redacted]
SIGNATURE CONFIRMATION

Case ID # [redacted]
Client ID # [redacted]
REQUEST #267905

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], the Department of Social Services (the "Department") notified [redacted] (the "Appellant") they will no longer pay for Ozempic, a GLP-1medication, because there is no record that she has been prescribed the medication for Type 2 diabetes and the Department will no longer cover the medication for other conditions.

On [redacted], the Appellant requested an administrative hearing to contest the Department's discontinuance of her prescription medication.

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

On [redacted], 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:

[redacted], Appellant
Jason Gott, Pharmacy Consultant
Shawn P. Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's prescribed medication, Ozempic, because she does not have a diagnosis of Type 2 diabetes.

FINDINGS OF FACT

1. The Appellant is a recipient of medical assistance under the Medicaid program, which provides payment for pharmaceutical services subject to conditions and limitations. (Hearing Record)

2. The Appellant is prescribed Ozempic for the treatment of Type 1 Diabetes with insulin resistance, and polycystic ovarian syndrome. (Appellant's testimony)

3. On [redacted], the Department's Medical Assistance Program issued a Policy Transmittal 2024-30 / Provider Bulletin ("PB") 2024-66 [redacted] The Bulletin was issued to Pharmacies, Physicians, Nurse Practitioners, Clinics, and Hospitals regarding a diagnosis requirement of Type 2 diabetes for GLP–1 Agonist Medications. (Exhibit 1: Provider Bulletin [redacted])

4. The Bulletin stated: "Effective [redacted], members who have been prescribed GLP-1 medications in the past for indications other than Type 2 diabetes will also require a diagnosis be submitted on the claim but will continue to pay through [redacted], regardless of the diagnosis submitted on the claim. The time will allow the prescriber to transition the member to an appropriate therapy when treating conditions other than Type 2 diabetes. Effective [redacted], all GLP–1 medication pharmacy claims will require an approved Type 2 diabetes diagnosis code. The GLP–1 medications described are only approved for the treatment of Type 2 diabetes per manufacturer prescribing guidelines as well as FDA approval status." The medications included Trulicity, Byetta, Bydureon, Rybelsus, Victoza/liraglutide, Ozempic, and Mounjaro. (Exhibit 1)

5. In [redacted], the Department updated PB 2024-66 to reflect new information. The updated bulletin provided instructions to the pharmacist to provide a flyer to the client when a medication is denied. The Department extended the date for an approved diagnosis to be submitted for a pharmacy claim for members who have been prescribed GLP-1 medications in the past for indications other than Type 2 diabetes. Claims will now continue to be paid through [redacted] (Exhibit 1)

6. In [redacted], the Department updated PB 2024-66. The Department extended the date for an approved diagnosis to be submitted on a pharmacy claim for members who have been prescribed GLP-1 medications in the past for indications other than Type 2 diabetes. The Department indicated it would continue to pay claims through [redacted] (Hearing Record)

7. In [redacted] the Department issued Provider Bulletin 2025-31. The bulletin notified

providers that claims for members prescribed GLP-1 medications in the past for indications other than Type II diabetes will continue to pay through [redacted]. (Exhibit 2: Provider Bulletin 2025-31)

8. Ozempic (Tirzepatide) injection is a Glucose-dependent insulinotropic polypeptide ("GIP") receptor and glucagon–like peptide-1 ("GLP-1") receptor agonist indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. (Exhibit 3: Manufacturer package insert)

9. Ozempic is approved by the FDA for the treatment of Type 2 diabetes. (Exhibit 3 and Department's testimony)

10. Effective [redacted] the Department is covering Orlistat and Phentermine, FDA approved oral medications for the treatment of weight loss. (Exhibit 2)

11. Effective [redacted], the Department will cover claims for Ozempic only for the treatment of Type 2 diabetes in accordance with its FDA approved indication and manufacturer's prescribing guidelines. (Department's Testimony)

12. The Appellant does not have a diagnosis of Type 2 diabetes. (Appellant's testimony)

13. The Department continued to pay for the Appellant's monthly Ozempic prescription during the extension period. (Hearing Record)

14. On [redacted] the Department sent the Appellant a Notice of Action informing her that, effective [redacted], it will no longer pay for the GLP-1 medications (Ozempic, Mounjaro, Trulicity, Byetta, Bydureon, Rybelsus, Victoza/Liraglutide) except in certain cases for Type 2 diabetes. The letter further stated that "there is no record that you have been prescribed this medication for Type 2 diabetes, and HUSKY Health will no longer cover these medications for other conditions (such as obesity). Please reach out to your prescribing practitioner as there may be alternative medications available." (Hearing Record)

15. 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] Therefore, this decision is due not later than [redacted]. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of Social Services to administer the Medicaid program.

2. Title 42 of the United States Code ("U.S.C.") § 1396r-8(d)(1) and (2) provide for limitations and restrictions on Medicaid coverage for certain drugs:

(1) Permissible restrictions

(A) A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

(B) A State may exclude or otherwise restrict coverage of a covered outpatient drug if-

(i) the prescribed use is not for a medically accepted indication (as defined in subsection (k)(6) of this section);

(ii) the drug is contained in the list referred to in paragraph (2);

(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) of this section or in effect pursuant to subsection (a)(4) of this section; or

(iv) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

(2) List of drugs subject to restriction
The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:
(A) Agents when used for anorexia, weight loss, or weight gain.
(B) Agents when used to promote fertility.
(C) Agents when used for cosmetic purposes or hair growth.
(D) Agents when used for the symptomatic relief of cough and colds.
(E) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.
(F) Nonprescription drugs, except, in the case of pregnant women when recommended in accordance with the Guideline referred to in section 1396d(bb)(2)(A) of this title, agents approved by the Food and Drug Administration under the over-the-counter monograph process for purposes of promoting, and when used to promote, tobacco cessation.
(G) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.
(H) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.

3. In Connecticut, section 17b-278*l* of the General Statutes, which was recently amended by section 327 of Public Act 25-168, effective [redacted], dictates when and under what circumstances the Department will cover through Medicaid and the Children's Health Insurance Program (CHIP) "prescription drugs approved by the federal Food and Drug Administration for the treatment of obesity on an outpatient basis for individuals with type 2 diabetes and prescription drugs approved by the federal Food and Drug Administration on an outpatient basis for the treatment of a comorbid condition for individuals with obesity." Conn. Gen. Stat. § 17b-278*l*(a)(3).

4. Section 17b-278*l* provides that coverage for these medications are subject to prior authorization and certain step therapy requirements; limits coverage to those beneficiaries who meet certain body-mass-index requirements; and indicates that such

coverage shall commence only after a state plan amendment (SPA) providing for such coverage is approved by the Centers for Medicare and Medicaid Services (CMS). *See* Conn. Gen. Stat. § 17b-278*l*(a)(3) and (b).

5. Connecticut SPA Transmittal No 25-0014, approved by CMS effective [redacted], provides updates to the State's excluded drug listing. With respect to FDA approved weight loss medications, the only medications for which coverage is afforded are orlistat and phentermine. The SPA provides that Xenical may be substituted for orlistat if (1) the net cost to the state after rebates is lower or (2) orlistat is not available due to supply restrictions.

The Department was correct when it determined that the Appellant's Medical Provider prescribed the GLP-1 medication, Ozempic, for medical conditions other than Type 2 diabetes for the Appellant.

On [redacted], the Department correctly notified the Appellant that she is no longer eligible for continued payment for her prescribed medication, Ozempic, because there is no record that she receives the medication to treat a diagnosis of Type 2 diabetes.

On [redacted], the Department correctly discontinued coverage of payment of Ozempic because the Appellant does not have a diagnosis of Type 2 diabetes and CMS has not approved a SPA authorizing coverage for Ozempic as an FDA-approved weight loss medication.

DECISION

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

Shawn P. Hardy
Shawn P. Hardy
Hearing Officer

Pc: Herman Kranc, Manager, DSS, Pharmacy Unit
Jason Gott, DSS, Pharmacy Unit
Eva Forrest, DSS, Pharmacy Unit
Shayna Singh, DSS, Pharmacy Unit
Jerry Dejesus, DSS, Pharmacy Unit
Cynthia Cartier, Staff Attorney, DSS, OLCRAH

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.