Connecticut Department of Social Services

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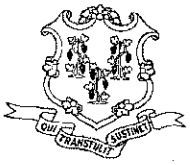

Testimony before the Public Health Committee
Kathleen Brennan, Deputy Commissioner for Administration
March 14, 2014

Good morning, Senator Gerratana and Representative Johnson and distinguished members of the Public Health Committee. My name is Kathy Brennan and I am the Deputy Commissioner of Administration at the Department of Social Services. I am before you today to testify on House Bill 5529, AAC the Definitions of Medical Necessity.

This bill seeks to amend the department's CT Medical Assistance Program definition of medical necessity in addition to the definitions for individual commercial insurance and group commercial insurance.

The Department has significant concerns about this proposed legislation. First, the bill removes the criteria "credible evidence published in peer-reviewed medical literature" and instead seeks to rely solely on the views of physician specialty societies, individual clinicians or "any other relevant factors". The scientific community (including the large majority of physicians) broadly acknowledges that credible evidence published in peer-reviewed literature is the best standard for medical and scientific evidence. Continuing to emphasize a high standard of medical evidence is particularly critical now because medical errors are rapidly becoming the leading cause of injury death in the United States.

It is not feasible to believe that a clinician can absorb the explosion of new information and therapies made available almost every day. Organizations like the US Preventive Services Task Force and the Cochrane Reviews, and the growing discipline of comparative effectiveness research all systematically grade the quality of health research in making their recommendations. All of those efforts are based primarily on credible scientific evidence as published in peer-reviewed medical literature. The opinions of specialty societies and experts are used in these reviews *only* in the absence of more credible information. Although *Crossing the Quality Chasm* and *to Err is Human* first described the impact of medical errors and poor quality of care almost 2 decades ago, organized medical societies are only just now formally reacting to this crisis through the *Choosing Wisely* program. Connecticut should continue moving in this direction by focusing on evidence-based treatments. Unfortunately, this bill moves in the opposite direction.

Moreover, the proposed amendment is completely unnecessary. The existing statutory language already has flexibility in defining what services meet subdivision (1) of the statute: generally accepted standards of medical practice. Those must be "based on" the four factors that follow, which gives some flexibility for the clinical reviewer to consider all of those factors in determining whether a requested service meets this part of the definition. The Department has

consistently interpreted this language in this way. For example, in a 2011 official communication to CMAP providers, the Department explained:

> The first requirement of the new definition, (a)(1), provides that in order to be medically necessary, a good or service must be consistent with generally accepted standards of medical practice as demonstrated by: evidence in the medical literature, other professional recommendations or other factors. **It is not necessary or possible that all of the factors or criteria contained in requirement (a)(1)(A) through (D) be satisfied for every service. For example, many treatments have not been subjected to peer-reviewed clinical trials or studies but may still be necessary to patient care per one or more of the other criteria.**
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> The fact that a treatment meets one or more of the criteria does not mean that it necessarily meets the definition. One of the other criteria may indicate lack of medical necessity and may be weighted more heavily if it reflects stronger, more relevant or more recent evidence. Again, to the extent relevant evidence is available, each of the criteria that comprise (a)(1) should be weighed to determine if this requirement is satisfied.

DSS, Provider Bulletin 2011-36 (May 2011) (emphasis added). Based on that flexibility, the Department has, when appropriate, approved requested services that are not necessarily based on scientific evidence published in peer-reviewed medical literature where other factors are present as appropriate for an individual's medical conditions. However, that flexibility is the exception. The general standard remains that credible scientific evidence based on peer-reviewed medical literature should remain the first listed item because it is the most important of those factors. It should definitely not be deleted.

The Department must firmly oppose this legislation because of this amendment and the message it sends. We believe that the care provided to HUSKY Health should be of the highest quality and built upon the strongest evidence base.