



STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
OFFICE OF FAIR HEARINGS

FILED

Jan 22, 2021, 8:17 am
OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]
Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing in the above-styled case on December 23, 2020, at [REDACTED]

APPEARANCES

For the Petitioner: [REDACTED]
Authorized Representative

For the Respondent: Melissa Layne
Senior Manager for Member Appeals
Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The issue is whether Respondent proved by a preponderance of the evidence that Respondent's reduction of Adult Companion Care services from thirteen (13) hours per week to ten (10) hours per week was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared for the Fair Hearing telephonically. [REDACTED]
("Petitioner's Authorized Representative" or "[REDACTED]"), Petitioner's daughter, appeared

for the Fair Hearing to provide testimony and did not call any witnesses. [REDACTED] (“[REDACTED]”), Petitioner’s caregiver, appeared for the Fair Hearing as an observer. Melissa Layne, Senior Manager for Member Appeals for Sunshine State Health Plan, Inc. (“Sunshine Health”), appeared for the Fair Hearing as a representative for Respondent. The following persons appeared for the Fair Hearing as witnesses for Respondent: Dr. John Carter (“Dr. Carter”), Medical Director for Sunshine Health; Adelina Maldonado, Supervisor of Case Management for Sunshine Health; and Barbara Acosta, Field Case Manager for Sunshine Health. Sheila Gonzalez, Medical Health Care Program Analyst and Fair Hearing Liaison for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared for the Fair Hearing as an observer.

Petitioner’s Authorized Representative introduced an evidence packet containing twenty-seven (27) pages, which was admitted into evidence as Petitioner’s Composite Exhibit 1. Petitioner’s Composite Exhibit 1 included the following: an email from [REDACTED] (dated December 4, 2020); a Designation of Authorized Representative for Medicaid Fair Hearing Participation (DAR) (signed by Petitioner on November 25, 2020); a Designation of Health Surrogate form (signed by Petitioner on June 21, 2018); [REDACTED] medical records (visit date: [REDACTED] 2020) (printed on [REDACTED] 2020); and a Durable Power of Attorney form (signed by Petitioner of June 21, 2018).

Respondent introduced an evidence packet containing one hundred and eleven (111) pages, which was admitted into evidence as Respondent’s Composite Exhibit 1. Respondent’s Composite Exhibit 1 included the following: a Table of Contents; the Medicaid Fair Hearing Summary (dated December 2, 2020); a Notice of Adverse Benefit Determination (“NABD”) (dated September 16, 2020); a Long Term Care Person-Centered Plan (“Plan of Care”) (signed by Care

Manager on August 28, 2020); a Plan of Care (signed by Care Manager on October 8, 2020); a Florida Department of Elder Affairs: 701B Comprehensive Assessment (“701B Comprehensive Assessment”) (dated August 28, 2020); a 701B Comprehensive Assessment (dated September 23, 2020); a Standard Appeal Acknowledgment letter (dated October 2, 2020); a Notice of Plan Appeal Resolution (“NPAR”) (dated October 24, 2020); Sunshine Health Policy and Procedure: Long Term Care (“LTC”) Ancillary Service Criteria (LT.UM.09) (“LTC Ancillary Service Criteria”); and the Florida Administrative Code Rule (“Fla. Admin. Code R.”) 59G-1.010 (166).

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine Health’s LTC Program. See Respondent’s Composite Exhibit 1, page 2. Sunshine Health is a Medicaid Managed Care organization contracted by the Agency to provide services to eligible Medicaid recipients in the State of Florida.

2. Petitioner is eighty-seven (87) years old and residing in the community with a primary caregiver, [REDACTED]. *Id.* at 49-50. Petitioner experiences the following physical health conditions: high blood pressure; diabetes; broken bones; and glaucoma. *Id.* at 55. Petitioner has been diagnosed with mild dementia. *Id.* at 57. Petitioner receives insulin assistance and physical therapy daily. *Id.* at 56. Petitioner’s other caregiver, [REDACTED], does not work outside of the home. *Id.* at 63. [REDACTED] spends 40 hours per week providing care to Petitioner. *Id.* Petitioner was admitted to [REDACTED] on [REDACTED] 2020, for a chief complaint of right hip pain and right femur pain stemming from a fall. See Petitioner’s Composite Exhibit 1, pages 17-20. As testified to by [REDACTED], [REDACTED] provides interactions such as conversation while rendering hands-on care to Petitioner and living in the home.

3. Petitioner needs total assistance (cannot do at all) with Activities of Daily Living (“ADLs”) such as bathing, dressing, transferring, and walking/mobility. See Respondent’s Composite Exhibit 1, page 53. Petitioner uses an assistive device for using the bathroom. *Id.* Petitioner does not need assistance with eating. *Id.* Petitioner needs total assistance with Instrumental Activities of Daily Living (“IADLs”) such as heavy chores, light housekeeping, managing money, preparing meals, shopping, using the telephone, managing medication, and using transportation. *Id.* at 54.

4. Prior to the instant action, Petitioner received the following LTC services: Homemaker services – 11 hours per week; Personal Care services – 16 hours per week; Adult Companion Care services – 13 hours per week; and Personal Emergency Response System (PERS) – 1 per month. *Id.* at 20.

5. On September 16, 2020, Sunshine Health issued an NABD suspending Petitioner’s LTC services. *Id.* at 4-6. The NABD stated as follows:

Sunshine Health has reviewed your request for 11 hours weekly of homemaker service (the person who cleans for you), 16 hours weekly of personal care (the person who helps bathe and dress you) and 13 hours weekly of companion care (the person who helps and watches over you), which we received on 9/2/20. After our review, this service has been:

SUSPENDED as of 9/27/20.

We made our decision because:
(Check all boxes that apply)

Other Authority Member requested.

...

The facts that we used to make our decision are: **Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.**

...

Sincerely,
Dr. Carter
Medical Director

See Respondent's Composite Exhibit 1, pages 4-8. (Emphasis added).

6. On October 24, 2020, Sunshine issued an NPAR partially approving Petitioner's plan appeal. *Id.* at 73. The NPAR stated as follows:

On September 25, 2020 we received your timely plan appeal request about Sunshine Health's Notice of Adverse Benefit Determination dated September 16, 2020. Notice of Adverse Benefit Determination Number [REDACTED] suspended your request for 11 hours weekly of homemaker service (the person who cleans for you), 16 hours weekly of personal care (the person who helps bathe and dress you) and 13 hours weekly of companion care (the person who helps and watches over you), provided to [Petitioner].

On October 23, 2020, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby **partially approves** your plan appeal. **As a result, [Petitioner] will receive 11 hours per week of homemaker services and 16 hours per week of personal care services. Companion Care Services is partially approved for 10 hours per week.** The remaining 3 hours per week are denied, effective October 23, 2020.

The reason for our decision was: The appeal to overturn the suspended services: 11 hours per week of home maker services and 16 hours per week of personal care services is APPROVED[.]

Based on the assessment of the member's care needs and household and caregiver status, Sunshine Health will PARTIALLY APPROVE the Companion Care Services for 10 hours per week. The remaining 3 hours per week are DENIED for lack of medical necessity. **Companion Care is provided to prevent social isolation. Companion Care is not hands on care. The member has regular contact with family and there is a low risk of social isolation.**

The updated care plan approved by Sunshine Health will include:

- 16 hours per week of Personal Care Services
- 11 hours per week of Homemaker Services
- 10 hours per week of Companion Care Services

This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

This decision was made by a Medical Director who is Board Certified Physician Internal Medicine.

...

Sincerely,
Sapnalaxmi Amin, MD (also referred to as "Dr. Amin").
Medical Director

See Respondent's Composite Exhibit 1, pages 73-77. (Emphasis added).

7. Respondent relied upon the LTC Ancillary Service Criteria to make its Medical Necessity determination. See Respondent's Composite Exhibit 1, pages 80-110. The LTC Ancillary Service Criteria states as follows regarding Adult Companion Care services:

1. Determinants for Services

When considering the level of support the member requires and which of the ancillary services may support the member's cognitive, functional, environmental, and social needs, several elements are to be considered. The review for the medical necessity of the ancillary services includes consideration of the member's support needed due to ADL deficits, living situation, and supervision needs.

a) Activities of Daily Living (ADL's)/Instrumental Activities of Daily Living (IADL's)

- Independent where member is able to provide the task without support, with or without assistive devices
- Minimal functional impairment where the ADL's require one of the following:
 - Supervision
 - At least minimum assistance
 - Member ambulates with assistance of a person or a device
 - Member transfers require at least minimum assistance
- Moderate functional impairment where two of the follow apply
 - Member has ADLs requiring at least minimal assistance
 - Member ambulates with assistance of a person or device
 - Member transfers require at least minimum assistance
- Maximum and persistent functional impairment without available caregiver support where all of the following exist:
 - Member has ADLs requiring total assistance
 - Member is non-ambulatory
 - Member transfers require one (1) to two (2) person assist
 - Member's treating physician has certified that member meets Maximum unctional impairment.

b) Living situation consideration

- Lives alone.

- Lives with family (with consideration of the number of days and hours that family members are not available to assist the member). Lives with non-family (with consideration of the number of days and hours that nonfamily members are not available to assist the member).

c) Supervision needs, including:

- Wandering risk: Member has already been found to leave their home unsafely and/or is unable to find their way back.
- Confused/disoriented and at risk to themselves: Member is confused and/or disoriented to the point that they are unable to perform functional activities, and if they do are at risk of harm to themselves.
- Member has a cognitive impairment that prevents them from knowing when or how to carry out personal care tasks and caregivers are not able to provide the services. The member is incapable of learning despite efforts to train in the care tasks. The member has memory deficits, which prevent them from managing care tasks.
- Member is unable to call for help, even with a personal emergency response unit. Member's medical status will not permit the member to all for help, even with assistance of a personal emergency response unit.

d) Available Supports

- No assistance needed or Always has assistance
- Has assistance most of the time
- Rarely has assistance
- Never has assistance

Services in Place

- Provided by Sunshine Health
- Provided by other Provider insurance

The criteria for each ancillary service is described below:

2. Adult Companion Care

Adult Companion Care services provide non-medical care, supervision, and socialization to a functionally impaired adult. Companions supervise the member with tasks such as meal preparation, laundry, and/or shopping, but do not perform these activities as discreet services. The provision of companion services does not entail hands-on nursing care. The service includes light housekeeping tasks include Adult Companion Care to the care and supervision of the member. The provision of services is provided at the member's residence when supervision is necessary.

Approval Criteria

To be considered for Adult Companion Care Services, a member must have a qualifying trigger diagnosis and meet the minimal criteria for the four (4) dimensions of determination as discussed here.

a) Trigger diagnosis include:

- Advanced Alzheimer's disease & dementia
- Mental Illness requiring supervision
- Parkinson's disease
- Multiple Sclerosis
- ALS
- Congestive Heart Failure
- COPD
- Cancer
- End Stage Renal disease
- TBI
- Other diagnosis as deemed medically necessary by Medical Director

b) Four (4) Dimensions of Determination

- Need for Supervision – safety risk if left without supervision
 - See Section C.1.c. for more details
- Informal Supports
 - None
 - Few friends/family in area
 - Family nearby
- Living Situation
 - Lives alone
 - Lives with others but is alone for extended periods of time due to the necessary absence of a caregiver
 - Lives with caregiver and others
- Services in Place
 - Sunshine Health provided and provided by other provider/insurance

Exclusions and Limitations for Adult Companion Care include but are not limited to:

1. Service must be provided at member's residence.
2. Member must reside in a non-facility based setting.
3. Member resides alone or resides with others and is left alone for long periods where member is at risk.
4. Member is at risk of social isolation.
5. Member has cognitive impairment that prevents them from knowing when or how to carry out personal care tasks.

6. The member has memory deficits, which prevent him or her from managing care tasks.
7. Member requires hands on assistance to carry out ADL tasks.
8. Member attends Adult day care or engages in community group or social events, unless service is needed for supervision. The provider must be awake during the provision of companion services, and the services shall not be provided overnight.
9. Adult Companion Care services provided by Sunshine Health may not duplicate services that are provided under by another provider.
10. Cognitive ability of member to engage in and comprehend conversation with others
11. Care, grooming, or feeding of pets and animals
12. Yard work, gardening, or home maintenance work
13. Escort Services

See Respondent's Composite Exhibit 1, pages 80-110. (Emphasis added).

8. On November 10, 2020, Petitioner's Authorized Representative timely requested a Fair Hearing to contest Respondent's reduction of Adult Companion Care services. The hearing was scheduled to be convened by telephone on December 23, 2020.

9. At the hearing and under oath, Dr. Carter testified that Petitioner is enrolled into the Participant Directed Option ("PDO") program and [REDACTED] is Petitioner's PDO Direct Service Worker, who also resides in the home with Petitioner. Respondent determined that the three (3) hours per week of Adult Companion Care services at issue were no longer medically necessary because Petitioner resides with his PDO Direct Service Worker and the Direct Service Worker can meet Petitioner's needs for Adult Companion Care services. Petitioner's services were suspended when Petitioner was hospitalized. Upon release from the hospital, Respondent determined that Petitioner's previous Adult Companion Care services were in excess of Petitioner's needs. Respondent's two Medical Directors determined that ten (10) hours per week of Adult Companion Care services services are sufficient to meet Petitioner's needs. Dr. Carter

testified that hands-on care is not addressed through Adult Companion Care services; hands-on care is addressed through Personal Care services.

10. At the hearing and under oath, [REDACTED] confirmed that [REDACTED] is Petitioner's PDO Direct Service Worker and that she resides in the home with Petitioner. [REDACTED] works a full-time job and does not live in Petitioner's home. [REDACTED] is not available to visit the Petitioner everyday. [REDACTED] testified that Petitioner now has a stomach ulcer and is being treated by a podiatrist. [REDACTED] testified that Petitioner is only able to walk 30 minutes per day since the development of the stomach ulcer. [REDACTED] testified that Petitioner needs more hands-on care such as care management for Petitioner's ulcer, every other day. [REDACTED] also testified that Petitioner needs more hands-on care such as medication management for additional medication prescribed as a result of high blood pressure.

11. [REDACTED] testified that Sunshine Health should convert Petitioner's Adult Companion Care services to Personal Care services because Petitioner's needs more hands-on care. [REDACTED] testified that Petitioner needs someone to talk to on the daily basis because he has suffered two life-altering events (Petitioner's wife passing in 2019; Hospitalization in 2020 due to a fall in the home).

CONCLUSIONS OF LAW

12. The Agency's Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to Florida Statutes ("Fla. Stat.") § 409.285(2) (2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

13. Pursuant to Fla. Admin. Code R. 59G-1.100(17)(b), this hearing was held as a *de novo* proceeding.

14. The burden of proof in this proceeding is governed by Fla. Admin. Code R. 59G-1.100(17)(g), which provides as follows:

The burden of proof is on the party asserting the affirmative of an issue, except as otherwise required by statute. **The burden of proof is on the Agency or plan, whichever is applicable, when the issue presented is the suspension, reduction, or termination of a previously authorized service.** The burden of proof is on the recipient or enrollee, when the issue presented is the denial or a limited authorization of a service. The party with the burden of proof shall establish its position to the satisfaction of the Hearing Officer by a preponderance of the evidence.

(Emphasis added).

15. Because Respondent reduced an existing service, the burden of proof is on the Respondent. See Fla. Admin. Code R. 59G-1.100(17)(g). The standard of proof in an administrative hearing is a preponderance of the evidence. *Id.* The preponderance of the evidence standard requires proof by “the greater weight of the evidence” (Black’s Law Dictionary at 1201, 7th Ed.).

16. The Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (“LTC Policy”) (March 2017), incorporated by reference in Fla. Admin. Code R. 59G-4.192, establishes the provision and coverage for LTC services available under the Florida Medicaid program. The LTC Policy provides as follows:

1.1 Description and Program Goal

Under the Statewide Medicaid Managed Care Long-term Care (LTC) program, managed care plans (LTC plans) are required to provide an array of home and community-based services that enable enrollees to live in the community and to avoid institutionalization.

...

1.3 Definitions

The following definitions are applicable to this policy. For additional definitions that are applicable to all sections of Rule Division 59G, F.A.C., please refer to the Florida Medicaid definitions policy.

1.3.1 Activities of Daily Living (ADLs)

ADLs include:

- Bathing
- Dressing
- Eating (oral feedings and fluid intake)
- Maintaining continence (examples include taking care of a catheter or colostomy bag or changing a disposable incontinence product when the recipient is unable to control bowel or bladder functions)
- Toileting
- Transferring

1.3.5 701-B Comprehensive Assessment

An individualized, complete assessment of an individual's medical, developmental, behavioral, social, financial, and environmental status. The assessment is conducted by a trained individual employed by the Department of Elder Affairs Comprehensive Assessment and Review for Long-Term Care Services (CARES) program or the LTC plan, to determine eligibility for the LTC program based on the need for a nursing facility level of care.

1.3.9 Instrumental Activities of Daily Living (IADLs)

When necessary for the recipient to function independently, including:

- Grocery shopping
- Laundry
- Light housework
- Meal preparation
- Medication management
- Money management
- Personal hygiene
- Transportation
- Using the telephone to take care of essential tasks (examples include paying bills and setting up medical appointments)

1.3.14 Medically Necessary or Medical Necessity

For the purposes of this policy, the service must meet either of the following criteria:

- a) Nursing facility services and mixed services must meet the medical necessity criteria defined in Rule 59G-1.010, F.A.C.
- b) All other LTC supportive services must meet all of the following:
 - Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs
 - Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide

- Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider

And, one of the following:

- Enable the enrollee to maintain or regain functional capacity; or
- Enable the enrollee to have access to the benefits of community living, to achieve person-centered goals, and to live and work in the setting of his or her choice.

1.3.16 Natural Supports

Unpaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.

...

4.1 General Criteria

Florida Medicaid covers services that meet all of the following:

- Are determined medically necessary;
- Do not duplicate another service; and
- Meet the criteria as specified in the policy.

4.2 Specific Criteria

Florida Medicaid LTC plans cover services that meet all of the following:

- Consistent with the type, amount, duration, frequency, and scope of services specified in an enrollee's authorized plan of care
- Provided in accordance with a goal in the enrollee's plan of care
- Intended to enable the enrollee to reside in the most appropriate and least restrictive setting

...

4.2.1 Home and Community-Based Supportive Services

The LTC program benefit includes coverage of the following home and community-based supportive services:

4.2.1.1 Adult Companion Care

The provision of non-medical care, supervision when necessary to protect the health, safety, and well-being of the enrollee, or social enrichment of a functionally impaired enrollee. This includes assistance or supervision with meal preparation, laundry, and light housekeeping tasks incidental to the care and supervision of the enrollee.

4.2.1.9 Homemaker Services

The provision of general household activities (such as meal preparation) and routine household care (including laundry and pest control) by a trained homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities.

...

4.2.2 Mixed Services

Mixed services may exceed State Plan limits on those services in accordance with this policy. The Long-term Care benefit includes coverage of the following mixed services:

...

4.2.2.6 Personal Care

In accordance with Rule 59G-4.215, F.A.C., for enrollees under the age of 21 years. To provide assistance with ADLs and IADLs, including assistance with preparation of meals, and housekeeping chores which are incidental to the care furnished or are essential to the health and welfare of the enrollee. The scope and nature of these services do not otherwise differ from personal care services furnished to persons under the age of 21 years.

17. Based on the NABD and the NPAR, Respondent reduced Petitioner's Adult Companion Care services by three (3) hours per week. See supra ¶ 5-6. Specifically, the NPAR determined that Petitioner's current LTC services are adequate to meet the Petitioner's needs because Petitioner "has regular contact with family and there is a low risk of social isolation." See supra ¶ 6. Respondent based their decision on an assessment of the member's care needs and household, and caregiver status. See supra ¶ 6. The record indicates that Petitioner's LTC services were suspended when Petitioner was hospitalized, and no longer in the home. Upon release from the hospital, Respondent re-evaluated Petitioner's long-term care and made a medical necessity determination. At the hearing, Dr. Carter argued that three (3) hours per week of Adult Companion Care services are sufficient to meet Petitioner's needs and that [REDACTED] could submit a new request if Petitioner has an unmet need for another type of LTC service, Personal Care services.

18. Both the NABD and the NPAR disclosed that the reduction of three (3) hours per week of Adult Companion Care services was made with the LTC Ancillary Service Criteria. See supra ¶ 5-6. As for the LTC Ancillary Service Criteria criteria at issue, Dr. Carter argued that Petitioner is not at-risk for social isolation. The LTC Ancillary Service Criteria for Adult Companion Care services

weighs two factors: Trigger diagnosis; and four (4) Dimensions of Determination (Need for supervision; Informal supports; Living Situation; and Services in place). *See supra* ¶ 7. Petitioner is diagnosed with a trigger diagnosis (Mild Dementia). *See supra* ¶ 2. The record indicates that Petitioner is a safety risk if left without supervision due to a recent hospitalization stemming from a fall in the home when left unsupervised. *See supra* ¶ 2. Petitioner lives with his Direct Service Worker, [REDACTED], who does not have employment outside of the home. *See supra* ¶ 2, 9-10. Petitioner's Authorized Representative's provides some natural support to the Petitioner, but cannot do so on a daily basis because she is employed full-time. *See supra* ¶ 10-11. Also, subsequent to the reduction, Petitioner receives a combined thirty-seven (37) hours per week of LTC services (Homemaker services – 11 hours per week; Personal Care services – 16 hours per week; and Adult Companion Care services – 10 hours per week). *See supra* ¶ 4, 6. The undersigned considered Petitioner's Authorized Representative's testimony with respect to Sunshine's internal criteria, the Definitions Policy criteria for Medical necessity, and the LTC Policy criteria for Medical Necessity with respect to Adult Companion Care services.

19. Adult Companion Care services are covered if they are determined to be medically necessary. Because Adult Companion Care services are classified as Home and Community-Based Supportive Services, the LTC Policy's definition of medical necessary applies. To be medically necessary, a service must meet the criteria set forth in the section 1.3.14 of the LTC Policy. Based on the record, *supra* ¶ 17, Respondent denied Petitioner's request for Adult Companion Care services for not meeting the following medical necessity standard: Services must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in

excess of the patient's needs. This criterion is outlined in the LTC Policy's definition of medical necessity. *See supra* ¶ 16.

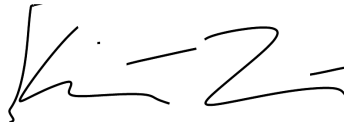
20. The record indicates that the three (3) hours per week of Adult Companion Care services are in excess of the Petitioner's needs. The record indicates that Petitioner resides with [REDACTED], who renders all of Petitioner's approved LTC services as a PDO Direct Service Worker. Petitioner also receives some natural support from [REDACTED], albeit not on a daily basis. Dr. Carter asserted that Petitioner's request was not medically necessary because Petitioner is not at-risk for social isolation upon consideration of Petitioner's natural supports and Petitioner's current long-term care services. [REDACTED] testified that [REDACTED] provides some social interaction, such as conversation, for Petitioner. [REDACTED] asserted that Petitioner needs more hands-on care such as caring for a stomach ulcer and additional medication, and requested the three (3) hours per week of Adult Companion Care services be converted to an additional three (3) hours per week Personal Care services. However, the LTC Policy labels such tasks under Personal Care services, not Adult Companion Care services. The undersigned considered that Petitioner experienced a recent fall resulting in injury and hospitalization, but the undersigned also considered that Petitioner currently lives in the home with his caregiver, and his caregiver does not work outside of the home. Although the record supports that Petitioner requires supervision to protect his safety, the record also supports a finding that Petitioner receives supervision and supervision both through his caregiver, [REDACTED], and current long-term care services. Based on the record, Respondent has demonstrated that three (3) hours per week of Adult Companion Care services are in excess of Petitioner's needs at this time. Thus, the Petitioner no longer meets criterion number two for medical necessity.

21. Accordingly, upon consideration of both parties' evidence, both parties' sworn testimony, evidence, and the aforementioned applicable laws and policies, the undersigned concludes that Respondent has proved that three (3) hours per week of Adult Companion Care services, at issue, are no longer medically necessary. The undersigned finds that Respondent proved by a preponderance of the evidence that Respondent's reduction of three (3) hours per week of Adult Companion Care services was correct.

DECISION

Respondent's reduction of Adult Companion Care services, from thirteen (13) hours per week to ten (10) hours per week is **AFFIRMED**. Petitioner's request for relief is hereby **DENIED**.

DONE and ORDERED this 22nd day of January, 2021, in Tallahassee, Leon County, Florida.



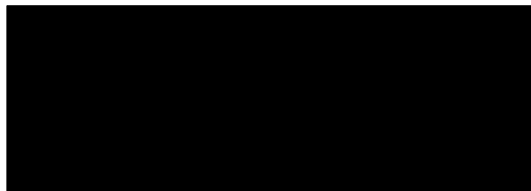
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Kristopher León
Reason: 20-FH [REDACTED]
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NOTICE OF A RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

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