



FILED

Apr 13, 2021, 8:37 am
OFFICE OF FAIR HEARINGS

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

██████████

PETITIONER,

AHCA Case No.: 21-FH-██████████

Plan ID No.: ██████████

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on March 4, 2021, at ██████████. During the hearing Petitioner made a request for continuance and Respondent's representative stated on the record that Respondent stipulated to the continuance. The parties agreed on the record reschedule the hearing for March 17, 2021 commencing at ██████████. Accordingly, pursuant to notice, the undersigned convened a telephonic Fair Hearing on the case on March 17, 2021, at ██████████

APPEARANCES

For the Petitioner: ██████████
Petitioner

For the Respondent: Paige Comparato, Esq.
Attorney for Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The issue is whether Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's homemaker services was correct.

PRELIMINARY STATEMENT

All parties appeared telephonically. All parties were present for both hearings. No testimony was taken during the first hearing.

Petitioner appeared on his own behalf. [REDACTED]

Petitioner's wife appeared as a witness for Petitioner.

Paige Comparato, Esq., attorney for Sunshine State Health Plan, Inc. ("Sunshine") appeared on behalf of Respondent. Dr. Michael Gervasi ("Dr. Gervasi"), Medical Director for Sunshine, appeared as a witness for Respondent. Katherine Calonje, Long Term Care Supervisor for Sunshine; and Melissa Lane, Senior Manager for Member Appeals for Sunshine appeared as witnesses, but did not provide any testimony. Doris Rivera, Medical Health Care Analyst for the Agency for Healthcare Administration ("AHCA" or "Agency") appeared as an observer.

Petitioner did not introduce any exhibits during the hearing. Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred sixteen page (116) page evidence packet. The evidence packet included: a table of contents, a Medicaid Fair Hearing Summary; a Notice of Adverse Benefit Determination ("NABD") dated November 20, 2020; a Long Term Care Person Centered Care Plan ("POC"), signed October 30, 2020; POC ("Current POC") signed on January 29, 2021; a Florida Department of Elder Affairs 701B Comprehensive Assessment ("701B") dated October 30, 2020; a 701B dated January 28, 2021; an e mail from Petitioner to Sunshine Appeals dated December 22, 2020; a completed Request for an Appeal Grievance Form; a Letter from Petitioner addressed to Sunshine Health Appeal and Grievance Coordinator dated December 21, 2021; a Standard Appeal Acknowledgment dated December 28, 2020; a Notice of Plan Appeal Resolution ("NPAR") dated January 21, 2021; Sunshine Health

Policy and Procedure, LTC (Long Term Care) Ancillary Service Criteria, Reference Number LT.UM.09 (“LT.UM.09”); and Rule 59G 1.010, Florida Administrative Code. Absent an objection from the Petitioner, the undersigned admitted the one hundred sixteen (116) page evidence packet into evidence as Respondent’s Composite Exhibit 1.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine. Respondent Composite Exhibit 1 at 2. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.

2. Petitioner received an NABD dated November 30, 2020, reducing his authorized homemaker services from ten (10) hours per week to five (5) hours per week. *Id.* at 5. At the time of the reduction, Petitioner was receiving the following services: Personal care, twenty eight (28) hours per week; Homemaker services, ten (10) hours per week; two (2) packs of wipes per month; and one (1) box of gloves per month. *Id.* at 20.

3. The NABD stated, in pertinent part, as follows:

Sunshine Health has reviewed your request for 10 hours per week of homemaker service (the person who cleans for you), which we received on 11/30/2020. After our review, this service has been:

REDUCED as of 12/15/2020.

We made our decision because:

(Check all boxes that apply)

We determined that your requested services are **not medically necessary** because the services do not meet the reason(s) checked below: *(See Rule)*

...

Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all other home and community based services.

1. 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;
2. 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; and
3. 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:

1. Enable the enrollee to maintain or regain functional capacity; or
2. Enable an enrollee receiving long term services and supports to have access to the benefits of community living, to achieve person centered goals, and live and work in the setting of their choice

...

The facts that we used to make our decision are: Sunshine Health has looked at the member's present care needs and provided home services. The member's present care plan includes 28 hours per week of personal care services and 10 hours per week of homemaker services.

Based on the assessment of the member's care needs and household and caregiver status, Sunshine Health will reduce the homemaker services from 10 hours per week to 5 hours per week, a reduction of 5 hours per week of homemaker services. The updated care plan approved by Sunshine Health will include 28 hours per week of personal care services and 5 hours per week of homemaker services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Id. at 5.

4. Petitioner timely appealed the NABD and received an NPAR dated January 21, 2021, stating, in pertinent part, as follows:

...

On December 22, 2020, we received your timely plan appeal request about Sunshine Health's Notice of Adverse Benefit Determination dated December 15, 2020, Notice of Adverse Benefit Determination Number [REDACTED], REDUCING the 10 hours per week of Homemaker Services (the person who cleans for you) provided to [Petitioner].

On January 19, 2021, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby, DENIES your plan appeal. As a result, [Petitioner] will not receive 10 hours per week of Homemaker Services (the person who cleans for you), effective January 19, 2020.

The reason for our decision was based on the assessment of the member's care needs and household and caregiver status, the reduction of Homemaker Services from 10 hours/week to 5 hours/week is upheld. The presently approved services are enough to meet the member's care needs. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

This decision was made by a Sunshine Health's Medical Director who is Board Certified in Internal Medicine, Geriatric Medicine, and Hospice & Palliative Care.

Id. at 78.

5. Petitioner timely requested a Fair Hearing on February 4, 2021. A Fair Hearing was initially convened on February 4, 2021, but was continued upon Petitioner's request. The continued hearing was held March 4, 2021, at which time a full evidentiary hearing was completed.

6. Petitioner has the following medical conditions: several fractures on the his left side from a motor vehicle accident in 1987; head, brain or spinal cord trauma; local site paralysis at c6 c7 spine; right shoulder tear with pain; and a bone loss disorder causing serve hip pain. *Id.* at 55 and 56.

7. Petitioner currently receives the following therapies or specialty care: bladder/bowel treatment, daily and catheter, several times a day. *Id.* at 56.

8. The 701B dated October 30, 2020, and the 701B dated January 28, 2021, state that Petitioner needs total assistance (cannot do at all) with the following activities of daily living ("ADLs"): bathing, dressing, using the bathroom, transferring, and walking/mobility. As to eating, both 701B's state that Petitioner requires no assistance. *Id.* at 35 and 53. Both 701Bs further state that for the ADLs requiring assistance, Petitioner always has assistance. *Id.*

9. Both 701Bs address Instrumental Activities of Daily Living ("IADLs") stating that Petitioner needs total assistance (cannot do at all) with heavy chores, light housekeeping, and preparing meals. As to shopping and using transportation, the 701Bs states that Petitioner needs assistance (but not total help). Finally, the 701Bs indicate that Petitioner needs no assistance with using the telephone, managing money and managing medication. *Id.* at 36 and 54. Both 701Bs state that for the IADLs requiring assistance, Petitioner always assistance. *Id.* at 36 and 54.

10. Both 701Bs indicate that [REDACTED] is Petitioner's caregiver and she does not work outside the house *Id.* at 45 and 63. Both 701Bs indicate that [REDACTED] provides more than forty (40) hours of care each week for Petitioner and that caring for Petitioner causes [REDACTED] some mental or emotional strain, but she is very confident that she will have the ability to continue to provide care. *Id.* at 46 and 64. The 701Bs note that Petitioner's mother provides additional assistance. *Id.* at 47 and 65.

11. The following was established by Dr. Gervasi's testimony at the hearing. Dr. Gervasi stated that he is a board certified family practitioner and has additional certifications in quality improvement and patient safety. Upon review of the services being received, Dr. Gervasi opined that the homemaker services were excessive because Petitioner receives a lot of homemaker services from his family members. Dr. Gervasi opined that the thirty (33) hours of care services Petitioner is currently receiving consisting of twenty (28) hours of personal care services and five (5) hours of homemaker services per week in addition to his family support, five hours (5) of homemaker services, is sufficient for Petitioner's needs. Dr. Gervasi explained that homemaker services are intended to supplement the other services that Petitioner has, including informal family supports. Dr. Gervasi concluded that Petitioner has a significant amount of family support for homemaker types of services because Petitioner's wife does not work outside the house and is available to assist him, and although his mother does not live with him, she is available to provide additional support. Dr. Gervasi explained that Respondent determines the available level of family support based on the 701B and then applies that information to the formulas described by the Homemaker Service Determination Table found starting on page ninety eight (98) of Respondent's Composite Exhibit Number 1. Dr. Gervasi testified that, based on the table's

formulas, Respondent determined that five (5) hours of homemaker services is sufficient for Petitioner's needs. Dr. Gervasi reviewed the "Support needed for housekeeping" section of the table concluding that no additional housekeeping support is needed because Petitioner lives with family members who are able to provide for housekeeping and because a family member does not work outside the house. Dr. Gervasi also applied the "Support needed for shopping" section of the table to Petitioner's unique condition concluding that Petitioner's family provide a minimum or moderate amount of assistance with hopping because Petitioner's wife needs to stay home to help take care of him. Dr. Gervasi opined that the table's formulas justify finding five (5) hours or homemaker services sufficient. Referring to page sixty three (63) of Respondent's Composite Exhibit Number 1, Dr. Gervasi testified that when Respondent made its decision, it was relying information in the 701B, including the statement that [REDACTED] does not work outside the home.

12. The following was established by testimony of [REDACTED] during the hearing. Ms. Germain testified that every day she does homecare for husband every day for two (2) hours in the morning and two (2) hours at night. She described the homecare she provides as follow. In the morning she prepares his meals, mops and cleans which includes disinfecting wheelchair and other areas. She changes his bedsheets every two days and does laundry twice a week. [REDACTED] testified that she has informed Petitioner's case manager that she works outside the home at various side jobs. [REDACTED] argued that she cannot not have a fulltime job because she takes care Petitioner.

13. Petitioner testified that although his health has gotten better, his physical abilities have decreased and that, due to his condition, he needs to thoroughly sanitize his house on a regular basis in order to prevent infections.

14. LT.UM.09 provides for the following regarding homemaker services:

6. Homemaker Services

Homemaker provides assistance with essential shopping, light housework, laundry, and meal preparation. These services are provided to members who exhibit a functional deficit that impairs their ability to complete these tasks and lack an available support system. Services are provided to support member's health, safety, and ensure basic standards are met. Services are provided by a trained homemaker when the individual regularly responsible for these services is temporarily absent or unable to manage these activities.

Approval Criteria

Homemaker Service reviews include four (4) criteria:

- a) Instrumental Activity of Daily Living (IADL) limitations
- b) Living situation
- c) Supervision needs
- d) Available Supports

See Section C.1 for more details

Covered Homemaker service may include:

- a) Light housekeeping includes mopping floors, vacuuming, dusting, cleaning counters and sinks, cleaning the stove and refrigerator, washing dishes, taking out the trash, changing and making the bed, and cleaning the tub/shower and toilet.

Housekeeping Considerations:

- Includes cleaning tasks necessary to attain and maintain sanitary living conditions for the member and is incidental to care being provided to the member
- For members living alone, housekeeping may apply to the entire residence but is limited to areas the member uses, including bedroom, bathroom, kitchen, and sitting area.
- The entire size of the home may be considered if cleaning of specific areas not used by the member is needed to maintain sanitary living conditions.
- For members sharing a residence, housekeeping applies only to the areas used by the member. This area includes the member's bedroom and one bathroom.

b) Shopping for the recipient's food and essential household items, picking up prescriptions and needed medical supplies

Shopping Considerations:

- Member' ability to obtain groceries, household goods, and medications on own
- Member's ability to put away groceries, household goods, and medications on their own
- Member lives with family who does the shopping for the member and puts away groceries, household goods and medications
- Member has other supports who do the shopping for the member and puts away groceries, household goods and medications

c) Meal preparation includes menu planning, storing, preparing, cooking, and serving food (buttering bread and cutting food into bite size pieces, plating). Meal preparation does not include the cost of the food.

Meal Preparation considerations

- Number of meals per days eaten by member or number of meals the member should eat per day
- Number of daily meals prepared by a caregiver and left in a location that the member can access, heat if necessary, and get to the table to eat.
- Meal preparation tasks member is able to complete independently. Is member able to use the microwave stove or oven?
- Amount of assistance needed in the preparation and cleanup, such as:
 - o Meal planning
 - o Meal preparation
 - o Special diets
 - o Special food preparation
 - o Assembling food on plates
 - o Getting food to the table
- Will additional supports allow the member to eat more often or improve nutritional status

d) Laundry includes washing, drying, folding, and putting away the recipient's personal laundry. The recipient pays all Laundromat and/or cleaning fees.

Laundry Considerations:

Identify the amount of laundry to be done on a weekly basis, including washing, drying, folding and putting away member's clothes, bed linens and towels, including:

- Amount of clothing and other items to be laundered
- Identify if member soils their clothing or bedding due to incontinence, therefore more frequent laundry is needed, which results in more smaller loads
- Preparing clothes and other items to be washed
- Putting the clothes and other items in the washer and dryer
- Hanging clothes and other items to dry

- Other chores could be done while the member’s clothes or other items are being washed, dried, folded, and put away.
- If laundry must be done in an apartment laundry room or a community laundry, additional time can be given for waiting for the laundry to be done.
- Routine changing of bed linens is considered part of bedroom housekeeping

Homemaker Service Determination Table

<p>Support needed for housekeeping: The following guide assists in determining the amount of support needed by the member:</p> <ul style="list-style-type: none"> • Lives alone and is able to provide own housekeeping: 0 minutes • Lives alone and needs minimum to maximum support of outside assistance for some housekeeping: 15 120 min/week • Lives with family who is able to provide all of member’s housekeeping: 0 minutes • Lives with family who provide a minimum or moderate amount of the member’s housekeeping: 15 90 minutes/week • Has informal supports who provide all of member’s housekeeping: 0 minutes • Has informal supports who provide a minimum or moderate amount of the member’s housekeeping: 15 90 minutes/week • Member requires maximum support for housekeeping: up to 120 minutes/week 	<p>Support needed for shopping The following guide assists in determining the amount of support needed by the member:</p> <ul style="list-style-type: none"> • Lives alone and is able to provide own shopping: 0 minutes • Lives alone and needs minimum to maximum support of outside assistance for some shopping: 15 90 min/week • Lives with family who is able to provide all of member’s shopping: 0 minutes • Lives with family who provide a minimum or moderate amount of the member’s shopping: 15 75 minutes/week • Has informal supports who provide all of member’s shopping: 0 minutes Has informal supports who provide a minimum or moderate amount of the member’s shopping: 15 75 minutes/week • Member requires maximum support for shopping: up to 90 minutes/week
<p>Support needed per meal: The following guide assists in determining the amount of support needed by the member:</p> <ul style="list-style-type: none"> • Breakfast by self –1 15 min/day • Breakfast with others –1 5 min/day • Lunch by self –1 20 min/day. • Lunch with others –1 5 min/day • Dinner by self –1 30 min/day. • Dinner with others –1 5 min/day 	<p>Support needed for laundry: The following guide assists in determining the amount of support needed by the member:</p> <ul style="list-style-type: none"> • Lives alone and is able to provide own laundry: 0 minutes • Lives alone and needs minimum to maximum support of outside assistance for laundry: 15 120 min/week

<ul style="list-style-type: none"> • ☐ Additional Meal –1 10 min per meal. 	<ul style="list-style-type: none"> • Lives with family who is able to do all of member’s laundry: 0 minutes • Lives with family who provide a minimum or moderate amount for the member’s laundry: 15 90 minutes/week • Has informal supports who do all of member’s laundry: 0 minutes • Has informal supports who do a minimum or moderate amount of the member’s laundry: 15 90 minutes/week • Member requires maximum support for laundry: up to 120 minutes/week
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Authorization Calculation

- Calculate the total number of minutes of support needed for housekeeping or chores.
- Convert the total number of minutes to units.
 - One (1) unit equals 15 minutes

If the total number of minutes is less than 15, that will equal one (1) unit.

Exclusions and Limitations for Homemaker 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. For members sharing a residence, housekeeping applies only to the areas used by the member. This area includes the member’s bedroom and one bathroom.
4. Homemaker services shall not be provided overnight.
5. Homemaker services provided by Sunshine Health may not duplicate services that are provided under by another provider.
6. Member/member’s representative must be able to provide direction to aid when aid is in the home.
7. Care, grooming, or feeding of pets and animals
8. Yard work, gardening, or home maintenance work
9. Escort Services
10. Day care or afterschool care
11. Assistance with homework
12. Meal preparation does not include the cost of meals

Id. at 96 to 100.

CONCLUSIONS OF LAW

15. The Agency's Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2) of the Florida Statutes (2020). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

16. This hearing was held as a *de novo* proceeding pursuant to Fla. Admin. Code R. 59G 1.100(17)(b).

17. Because Respondent is reducing a previously authorized service, Fla. Admin Code R. 59G 1.100(17)(g) assigns the burden of proof to Respondent. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence" (Black's Law Dictionary at 1201, 7th Ed.)

18. The Statewide Medicaid Managed Care Long Term Care Program Policy (March 2017) ("LTC Policy"), incorporated by reference in Fla. Admin. Code R. 59G 4.192, governs Long Term Care services available under Florida Medicaid including homemaker services. The LTC Policy provides the following with respect to homemaker services:

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.

...

1.3.1 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

...

1.3.9 Instrumental Activities of Daily Living (IADLs)

When necessary for the recipient to function independently, including:

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

...

4.1 General Criteria

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

- Are determined medically necessary, as defined in this rule
- Do not duplicate another service
- Meet the criteria as specified in this policy

...

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.

19. The LTC Policy also addresses medical necessity:

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.

20. The Florida Medicaid Definitions Policy, incorporated by reference in Fla. Admin. Code R.

59G 1.010, defines "Medically Necessary" or "Medical Necessity" as follows:

The medical or allied care, goods, or services furnished or ordered must meet the following conditions:

- Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate pain
- 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 consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational
- 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

21. Respondent has the burden of proving that its decision to reduce Petitioner's homemaker services was correct. The NABD states that Respondent reduced Petitioner's homemaker's services because Respondent determined that the requested services are not medically necessary because the services do not meet all of the following requirements:

- a. 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;
- b. 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; and

- c. Be furnished in a manner not primarily intended for the convenience of the recipient.
- d. Meet one of the follow requirements:
 - i. Enable the enrollee to maintain or regain functional capacity; or
 - ii. Enable an enrollee receiving long term services and supports to have access to the benefits of community living, to achieve person centered goals, and live and work in the setting of their choice

Supra ¶ 3.

22. The NABD further states that the decision to reduce Petitioner's homemaker's services was based on the assessment of the member's care needs and caregiver status. *Supra* ¶ 3. Dr. Gervasi likewise testified that Respondent's decision took into account the natural supports available to Petitioner, specifically his wife, and that Petitioner's wife did not work outside the home. *Supra* ¶ 11. However, [REDACTED]'s testimony that she works outside the house and has previously informed Petitioner's case manager of such is credible. *Supra* ¶ 12. Although Dr. Gervasi pointed out that Respondent's decision was based on the information available at the time as described in the 701B, this proceeding is a *de novo* proceeding pursuant to Fla. Admin. Code R. 59G 1.100(17)(b), and, accordingly the undersigned may consider facts that were not available at the time Respondent initially made its decision.

23. Respondent has not explained or described any change in Petitioner's medical or living conditions that would support the reduction of services. Pursuant to LT.UM.09 the purpose of homemaker services is to provide assistance with essential shopping, light housework, laundry, and meal preparation. LT.UM.09 provides that the related approval criteria involve a review of IADLs' limitations; Living situation; supervision needs and available Supports. The policy's Homemaker Service Determination Table provides a detailed table and formula for calculating the appropriate level of homemaker services based on the following related activities: housekeeping, shopping, meal preparation and laundry. *Supra* ¶14. Although Dr. Gervasi

testified that Respondent determined that five (5) hours of homemaker services are adequate based on the table and formula, he only provided testimony as to the application of the housekeeping and shopping sections of the table to Petitioner's unique medical condition. Furthermore, Respondent did not submit any documentary evidence showing how it applied the table and formula to Petitioner's unique medical condition in order to support its claim that five (5) hours of homemaker services are adequate.

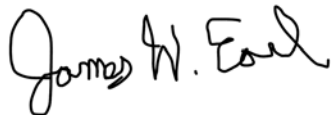
24. Considering that Petitioner has not proven an improvement in Petitioner's medical or living conditions, that Petitioner's caregiver works outside the house parttime, and that Respondent has failed to demonstrate that the full application of its policy's Homemaker Service Determination Table and related formula justifies the reduction of the Petitioner's homemaker services, Respondent did not prove that the homemaker services are excessive, and, therefore not medically necessary.

25. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Respondent did not prove by a preponderance of the evidence that Respondent's reduction of homemaker services was correct.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Respondent's reduction of homemaker services is **REVERSED**. Petitioner's appeal based on Respondent's reduction of is **GRANTED**.

DONE AND ORDERED this 13th day of April, 2021, in Tallahassee, Leon County, Florida.

 James W. Earl
21 FH [REDACTED]
2021.04.13 08:34:18
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JAMES W. EARL, Hearing Officer
Agency for Health Care Administration

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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.

Copies Furnished To:



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