

Acknowledgment, dated February 24, 2021; Sunshine’s Notice of Plan Appeal Resolution (“NPAR”), dated March 11, 2021; the Sunshine Health Policy and Procedure LT.UM.09; and Fla. Admin. Code R. 59G-1.010. Absent an objection from Petitioner, the undersigned admitted Respondent’s 98-page evidence packet into evidence as Respondent’s Composite Exhibit 1.

Prior to the hearing, Respondent also sent to the Office of Fair Hearings and Petitioner a 9-page evidence packet. The packet included Sunshine’s care plan, signed January 29, 2021. Absent an objection from Petitioner, the undersigned admitted Respondent’s 9-page evidence packet into evidence as Respondent’s Composite Exhibit 2.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine’s LTC plan. *See* Respondent’s Composite Exhibit 1, page 2. Sunshine is a managed care organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.
2. As of the date of the Fair Hearing, Petitioner is a [REDACTED] year-old female who lives alone in a private residence. *See* Respondent’s Composite Exhibit 1, pages 22 and 23. Petitioner “manages her personal care with the assistance of home health aide, to assist with house keeping [sic], meal prepping, supervision, little to no assistance.” *Id.* at 15. Petitioner “has vision impairments and physical limitations that does not allow her to meal prep.” *Id.* at 16.
3. The 701B reflects that Petitioner has the following health conditions: acid reflux; allergies (Morphine and Codeine); moderate anemia; arthritis (hands and neck); high blood pressure; high cholesterol; dehydration (past); frequent dizziness; fibromyalgia (past); gallbladder removal (past); pneumonia; stomach ulcers; urinary tract infection; and “Gastric polyps, Cataracts

(surgery) 2015), muscular [sic] degenerate [sic].” See Respondent’s Composite Exhibit 1, pages 28 and 29.

4. The 701B reflects that Petitioner does not receive any of the following specialty care: IV fluids, IV medications, wound care, tube feedings, suctioning, bladder/bowel treatment, dialysis, or oxygen. See Respondent’s Composite Exhibit 1, page 29.

5. The 701B reflects the following regarding Petitioner’s Activities of Daily Living (“ADLs”). Petitioner needs no assistance with eating. See Respondent’s Composite Exhibit 1, page 26. Petitioner uses assistive devices for using the bathroom, transferring, and walking/mobility. *Id.* Petitioner needs supervision or prompts for using the bathroom, transferring, and walking/mobility. *Id.* Petitioner needs total assistance (cannot do at all) for bathing and dressing. The 701B reflects that Petitioner is able to eat independently. *Id.*

6. Regarding Petitioner’s Instrumental Activities of Daily Living (“IADLs”), the 701B reflects that Petitioner needs no assistance with using the telephone. See Respondent’s Composite Exhibit 1, page 27. Petitioner needs supervision or prompt for managing medication. *Id.* Petitioner needs assistance (but not total help) with managing money. *Id.* Petitioner needs total assistance (cannot do at all) with heavy chores, light housekeeping, preparing meals, shopping, and using transportation.

7. Petitioner is currently authorized to receive the following home and community-based services: 5 hours per week of adult companion care services; 10 hours per week of homemaker services; and 14 hours per week of personal care services. See Respondent’s Composite Exhibit 1, pages 16 and 17.

8. On February 9, 2021, Respondent issued an NABD terminating 7 home delivered meals per week, and explaining that the “requested services are **not medically necessary.**” See Respondent’s Composite Exhibit 1, page 4 (emphasis added). The NABD stated:

The facts that we used to make our decision are: Sunshine Health looked at the member's present care needs and provided home services. The member's present care plan includes 7 meals/week of Home Delivered Meals. Based on the assessment of the member’s care needs and household and caregiver status, Sunshine Health will terminate the 7 meals/week of Home Delivered Meals. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Respondent’s Composite Exhibit 1, page 5.

9. Petitioner requested an appeal of Respondent’s termination of 7 home delivered meals per week. See Respondent’s Composite Exhibit 1, page 54. On March 11, 2021, Respondent sent Petitioner an NPAR, denying Petitioner’s plan appeal. *Id.* at 60. The NPAR stated as follows:

On February 15, 2021, we received your timely plan appeal request about Sunshine Health’s Notice of Adverse Benefit Determination dated February 9, 2021, Notice of Adverse Benefit Determination Number [REDACTED] terminating the 7 meals per week home delivery meals (meals sent your home), provided to [Petitioner].

On March 10, 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 the 7 meals per week home delivery meals, effective March 10, 2021.

The reason for our decision was:

The appeal to overturn 7 meals per week of Home Delivered Meals is denied for lack of medical necessity. The member receives 29 hours per week of Home Health Aide services which can be used for meal preparation. In addition, the member receives 4 cases per month of Boost. 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.

Respondent's Composite Exhibit 1, page 60.

10. Respondent relied upon the Sunshine Health Policy and Procedure LT.UM.09 to make its determination in this case, which states in pertinent part, as follows:

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 incidental to the care and supervision of the member. The provision of services is provided at the member's residence when supervision is necessary.

...

5. Home Delivered Meals

Nutritionally sound meals to be delivered to the residence of the member who has difficulty shopping for or preparing appropriate, nutritious meals without assistance. The member must be given a choice of meals from a menu provided in advance. Each meal is designed to meet the *USDA 2015-2020 Dietary Guidelines for Americans*. The service must be provided at the member's residence. The Home Delivered Meals can be hot, cold, frozen, dried, canned or a combination of these options. More than one meal can be delivered at a time if there is proper storage and heating facilities at the member's residence. The member must be able to prepare and consume the meals him/herself with available assistance.

To be considered a home delivered meal, each meal must be designed to provide a minimum 33% of the current Dietary Reference Intake (DRI). The meals shall meet the Dietary Guidelines for Americans and the USDA My Food Pyramid Intake Pattern. The meals must reflect the predominant statewide demographic.

...

6. Homemaker Services

Homemaker provides assistance with essential shopping, light housework, laundry, and meal preparation. These services are provided to member's 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 Activities of Daily Living (IADL) limitations

- b) Living situation
- c) Supervision needs
- d) Available supports

...

7. Personal Care Services

A service that provides assistance with eating, bathing, dressing and personal hygiene, and other activities of daily living. The service includes assistance with preparation of meals, but does not include the cost of meals. The service may also include housekeeping tasks such as bed making, dusting and vacuuming, which are incidental to the care furnished or are essential to the health and welfare of the member, rather than the member's family. Personal care services include the following:

- Assistance to the member to complete personal hygiene (bathing, grooming, mouth care, etc.)
- Assistance with bladder and bowel requirements that include assisting the member to and from the bathroom or with bedpan routines
- Assisting the member in following through with physician orders
The Personal Care provider cannot not administer any medications, but may bring medications to the member and remind the member to take the medicine at specific times
- Assisting with food, nutrition, and diet activities, including preparing meals, when required
and other incidental services, (i.e. housekeeping chores) essential to the health and welfare of the member
- Performing household services (changing bed linen or arranging furniture), when such services are essential to the member's health and comfort.

...

Approval Criteria

Personal Care Services reviews include four (4) criteria:

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

Respondent's Composite Exhibit 1, pages 73, 76-78 and 84-85.

11. On March 15, 2021, Petitioner requested a Fair Hearing due to the termination of home delivered meals. The undersigned scheduled the Fair Hearing for April 22, 2021, at [REDACTED] and all parties were duly notified.

12. Dr. Carter is the LTC Medical Director for Sunshine. During the Fair Hearing, Dr. Carter noted that Petitioner is currently authorized to receive 4 cases per month of Boost nutritional supplement. Discussing Respondent's rationale for the termination of Petitioner's 7 home delivered meals weekly, Dr. Carter explained that Petitioner's currently approved 29 hours of services (which consists of 5 hours per week of adult companion care services, 10 hours per week of homemaker services, and 14 hours per week of personal care services) are enough to help with meal preparation and other ADLs. Additionally, Dr. Carter testified that the termination is appropriate since Petitioner has adequate home services and receives a nutritional supplement.

13. Petitioner believes that she needs the 7 home delivered meals weekly, as she noted that she is blind in 1 eye, has arthritis in her hands, and the meals are her main source of nutrition.

14. [REDACTED] is a Social Worker at [REDACTED]. [REDACTED] believes that Petitioner needs the 7 home delivered meals weekly, as she cannot see well enough to cook, has diminished eyesight, is hard of hearing, and the meals will be there for Petitioner to microwave if no aide shows up to assist her. Petitioner has not had consistent help from home health aides in the past, but she has now changed home health agencies.

15. [REDACTED] is Petitioner's daughter. [REDACTED] resides in [REDACTED] and tries to visit with Petitioner a couple of times per year. It was established through [REDACTED]'s testimony that the aides from the home health agency do not prepare (cook) food, but they do heat up food and prepare soup, sandwiches, toast, or tuna.

CONCLUSIONS OF LAW

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

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

18. 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.

19. Because Respondent terminated existing services, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the 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.).

20. The Florida Medicaid policy that applies to the requested services is the Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (March 2017) ("SMMC LTC Policy"). The Agency's SMMC LTC Policy has been incorporated, by reference, into Florida Administrative Code Rule 59G-4.192. The SMMC 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.

...

2.2 Who Can Receive

Florida Medicaid recipients requiring medically necessary LTC services who are enrolled in a LTC plan and have a nursing facility level of care determined by the CARES program. Some services may be subject to additional coverage criteria as specified in section 4.0.

...

4.0 Coverage Information

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 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.

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.

...

4.2.1.8 Home Delivered Meals

The provision of nutritionally sound meals delivered to an enrollee's home when an enrollee has difficulty shopping for, or preparing food, without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake. The meals must meet the current Dietary Guidelines for Americans, the United States Department of Agriculture My Pyramid Food Intake Pattern and reflect the predominant statewide demographic.

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.

...

4.2.2.6 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.

...

6.0 Documentation

...

6.2 Specific Criteria

In order to receive LTC services, services must be documented on an individualized plan of care based upon a comprehensive needs assessment. The comprehensive assessment includes the completion of the 701-B Comprehensive Assessment and the LTC Supplemental Assessment.

21. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-1.010, defines “medical necessity” as follows:

2.83 Medically Necessary or Medical Necessity

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 severe 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

The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

22. The Agency’s PC Policy has been incorporated, by reference, into Fla. Admin. Code R. 59G-4.215. The PC Policy provides as follows:

1.1 Description

Florida Medicaid personal care services provide medically necessary assistance, in the home or in the community, with activities of daily living (ADL) and age appropriate instrumental activities of daily living (IADL) to enable recipients to accomplish tasks they would normally be able to do for themselves if they did not have a medical condition or disability.

...

1.1.2 Statewide Medicaid Managed Care Plans

Florida Medicaid managed care plans must comply with the coverage requirements outlined in this policy, unless otherwise specified in the AHCA contract with the Florida Medicaid managed care plan. The provision of services to recipients enrolled in a Florida Medicaid managed care plan must not be subject to more stringent coverage limits than specified in Florida Medicaid policies.

...

4.0 Coverage Information

4.1 General Criteria

Florida Medicaid reimburses for services that meet all of the following:

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

4.2 Specific Criteria

Florida Medicaid reimburses for up to 24 hours of personal care services per day, per recipient, in order to provide assistance with ADLs and age appropriate IADLs when the recipient meets the following criteria:

- Has a medical condition or disability that substantially limits their ability to perform ADLs or IADLs and do not have a parent or legal guardian able to provide the required care
- Is under the care of a physician and has a physician's order for personal care services
- Requires more extensive and continual care than can be provided through a home health visit
- Requires services that can be safely provided in their home or the community

...

5.1 General Non-Covered Criteria

Services related to this policy are not reimbursed when any of the following apply:

- The service does not meet the medical necessity criteria listed in section 1.0.
- The recipient does not meet the eligibility requirements listed in section 2.0.
- The service unnecessarily duplicates another provider's service.

5.2 Specific Non-Covered Criteria

Florida Medicaid does not reimburse for the following:

- A skill level other than what is prescribed in the physician order and approved plan of care (POC)
- Assistance with homework
- Babysitting
- Care, grooming, or feeding of pets and animals
- Certification of the POC by a physician
- Companion sitting or leisure activities
- Escort services
- Housekeeping (except light housekeeping to make the environment safe), homemaker, and chore services
- Nursing assessments related to the POC

- Professional development training or supervision of home health staff or other home health personnel
- Respite care to facilitate the parent or legal guardian attending to personal matters
- Services funded under section 110 of the Rehabilitation Act of 1973 or under the provisions of the Individuals with Disabilities Educational Act
- Services furnished by relatives as defined in section 429.02(18), F.S., household members, or any person with custodial or legal responsibility for the recipient. (Except when a recipient is enrolled in the Consumer-Directed Care Plus program)
- Services provided in any of the following locations:
 - Hospitals
 - Intermediate care facility for individuals with intellectual disabilities – Nursing facilities
 - Prescribed pediatric extended care centers
 - Residential facilities or assisted living facilities when the services duplicate those provided by the facility
- Services rendered prior to the development and approval of the POC
- Travel time to or from the recipient’s place of residence
- Yard work, gardening, or home maintenance work

Florida Medicaid may reimburse for some services listed in this section through a different service benefit.

...

7.0 Authorization

7.1 General Criteria

The authorization information described below is applicable to the fee-for-service delivery system. For more information on general authorization requirements, please refer to Florida Medicaid’s General Policies on authorization requirements.

...

Personal Care Task	General Time Allowances
Bathing	
Full-body Bath: Tub, shower or sponge/bed bath.	Up to 30 minutes. May rotate with partial bath based on recipient’s needs
Partial Bath: A sponge bath includes, at a minimum, bathing of the face, hands, and perineum.	15–20 minutes per partial bath
Dressing	

Laying out clothing, handing and retrieving clothing, putting clothes on and taking them off, including handling fasteners, zippers, and buttons.	15 minutes
Application of prosthetic devices or application of therapeutic stockings.	May add 15 minutes for applying hose and/or Prosthesis
Grooming and Skin Care	
Brushing teeth, denture care, shaving, washing and drying face and hands. Applying lotion to non-broken skin.	15–30 minutes
Shampoo and comb hair, basic hair care, basic nail care.	15 minutes
Positioning	
Moving recipient to and from a lying position, turning side to side, and positioning recipient in bed.	10 minutes/every 2 hours when medically indicated
Transfers	
Moving recipient into and out of a bed, chair, or wheelchair. May include the use of assistive devices.	15 minutes/every 2 hours when medically indicated
Toileting and Maintaining Continence	
Includes transfer on or off the toilet, bedside commode, urinal, or bedpan. Includes cleaning the perineum and cleaning after an incontinent episode. Includes taking care of a catheter or colostomy bag or changing a disposable incontinence product.	15–45 minutes
Eating	
Taking in food by any method. Extra time may be allowed for preparing a special diet.	30 minutes per meal
Delegated Medical Monitoring and Activities	
Non-skilled medical tasks that are delegated to the aide by the RN, in accordance with Florida laws and practice acts. The tasks include, but are not limited to, assisting recipient with pre-poured medications, monitoring vital signs, and measurement of intake/output.	15–30 minutes day for all monitoring tasks performed

PC Policy, pages 3 – 8, and 10.

23. In the instant case, Respondent terminated Petitioner's 7 home delivered meals per week. *See supra* ¶ 8 and 9. As established on the record by the evidence and testimony, Respondent terminated the home delivered meals, because the documentation submitted in support of Petitioner's request failed to establish that the requested services were medically necessary. *See supra* ¶ 8 and 9.

24. Section 4.1 of the SMMC LTC Policy provides that Florida Medicaid LTC plans cover services that: are medically necessary, as defined in the SMMC LTC Policy; do not duplicate another service; and meet the criteria as specified in the SMMC LTC Policy. *See supra* ¶ 20.

25. Section 4.2.1.8 of the SMMC LTC Policy provides that Home Delivered Meals are "[t]he provision of nutritionally sound meals delivered to an enrollee's home when an enrollee has difficulty shopping for, or preparing food, without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake." *See supra* ¶ 20.

26. The Sunshine Health Policy and Procedure LT.UM.09 defines home delivered meals as "[n]utritionally sound meals to be delivered to the residence of the member who has difficulty shopping for or preparing appropriate, nutritious meals without assistance." *See supra* ¶ 10.

27. The evidence presented in this case reflects that Respondent established that the termination of 7 home delivered meals per week was warranted under the circumstances of this case. Specifically, section 2.83 of the Definitions Policy mandates that "[t]he medical or allied care, goods, or services furnished or ordered must . . . [b]e 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." *See supra* ¶ 21. In this case, Petitioner lives alone and needs: supervision or prompts for using the bathroom, transferring, and walking/mobility; and total

assistance (cannot do at all) for bathing and dressing. *See supra* ¶ 5. Petitioner uses assistive devices for using the bathroom, transferring, and walking/mobility. *See supra* ¶ 5. Regarding IADLs, Petitioner needs: no assistance with using the telephone; supervision or prompt for managing medication; assistance (but not total help) with managing money; and total assistance (cannot do at all) with heavy chores, light housekeeping, preparing meals, shopping, and using transportation. *See supra* ¶ 6. Petitioner has multiple medical conditions, including arthritis of the hands and neck, frequent dizziness, and vision impairments. *See supra* ¶ 2, 13 and 14. Petitioner “has vision impairments and physical limitations that does not allow her to meal prep.” *See supra* ¶ 2.

28. However, Petitioner does not receive any of the following specialty care: IV fluids, IV medications, wound care, tube feedings, suctioning, bladder/bowel treatment, dialysis, or oxygen. *See supra* ¶ 4. Additionally, Petitioner is currently authorized to receive the following home and community-based services: 5 hours per week of adult companion care services; 10 hours per week of homemaking services; and 14 hours per week of personal care services. *See supra* ¶ 7. Petitioner is also authorized to receive 4 cases per month of Boost nutritional supplement. *See supra* ¶ 9 and 12. Although Petitioner requires total assistance with preparing meals, meal preparation is a task included in Petitioner’s currently authorized homemaker services and personal care services. ██████████ acknowledged that that the aides from the home health agency do not prepare (cook) food, but they do heat up food and prepare soup, sandwiches, toast, or tuna. *See supra* ¶ 15. Furthermore, the NPAR explained that “The appeal to overturn 7 meals per week of Home Delivered Meals is denied for lack of medical necessity. The member receives 29 hours per week of Home Health Aide services which can be used for

meal preparation. In addition, the member receives 4 cases per month of Boost.” The record does not indicate that Petitioner’s currently authorized services are insufficient to provide for meal preparation for seven (7) meals each week (to replace the home delivered meals), as well as Petitioner’s remaining ADLs and IADLs.


29. Considering Petitioner’s medical condition and current level of need for assistance with ADLs and IADLs, *supra* ¶ 2 – 6 and 13 – 15, as well as Petitioner’s currently authorized services, Respondent demonstrated that Petitioner’s aforementioned needs, *supra* ¶ ¶ 2 – 6 and 13 – 15, are sufficiently met with the termination of the 7 home delivered meals weekly. Given that Respondent established that the termination of 7 home delivered meals weekly is warranted in this matter, *supra* ¶ 27 – 28, the 7 home delivered meals are “in excess of [Petitioner’s] needs.” See *supra* ¶ 21.

30. In light of the evidence submitted, testimony provided, and applicable laws and policies, the undersigned Hearing Officer finds that Respondent met its burden of proving by a preponderance of the evidence that Respondent’s termination of 7 home delivered meals per week was correct.

DECISION

Respondent’s termination of 7 home delivered meals per week is **AFFIRMED**. Petitioner’s appeal based on Respondent’s termination of home delivered meals in this matter is **DENIED**.

DONE AND ORDERED this 26th day of May, 2021, in Tallahassee, Leon County, Florida.

Tracie Hardin
21-FH [REDACTED]
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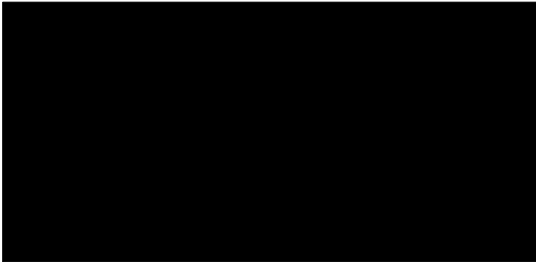
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NOTICE OF A RIGHT TO JUDICIAL REVIEW

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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