



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

FILED

Apr 28, 2023, 9:14 am  
OFFICE OF FAIR HEARINGS

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH0042

Plan ID No.: [Redacted]

vs.

HUMANA MEDICAL PLAN, INC.,

RESPONDENT.

\_\_\_\_\_ /

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH0043

Plan ID No.: [Redacted]

vs.

HUMANA MEDICAL PLAN, INC.,

RESPONDENT.

\_\_\_\_\_ /

[Redacted],

PETITIONER,

AHCA Case No.: 23-FH0044

Plan ID No.: [Redacted]

vs.

HUMANA MEDICAL PLAN, INC.,

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, Hearing Officer Caylen Darbouze convened a telephonic consolidated Fair Hearing on the instant case on March 20, 2023, at 1:01 p.m. Eastern Standard Time ("EST").

**APPEARANCES**

For the Petitioner: [Redacted]

Authorized Representative

For the Respondent: Markeshi Lee  
State Fair Hearings Specialist  
Humana Medical Plan, Inc.

**STATEMENT OF ISSUE**

The first issue is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of 14 additional hours per week of homemaker services was incorrect.

The second issue is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of 14 additional hours per week of adult companion care services was incorrect.

The third issue is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of 14 additional hours per week of personal care services was incorrect.

**PRELIMINARY STATEMENT**

All parties appeared for the scheduled consolidated Fair Hearing telephonically. [REDACTED], Petitioner's Authorized Representative, appeared for the Fair Hearing as Petitioner's representative but did not testify. [REDACTED] appeared for the Fair Hearing as a witness for Petitioner.

Markeshi Lee ("Mr. Lee"), State Fair Hearings Specialist for Humana Medical Plan, Inc. ("Humana"), appeared for the Fair Hearing as representative for Respondent. Manohar K. Chenchugalla, M.D ("Dr. Chenchugalla"), a Medical Director for Humana, appeared for the Fair Hearing as a witness for Respondent.

Suzanne Chillari, Medical Health Care Program Analyst for the Agency for Health Care Administration ("Agency" or AHCA"), appeared for the Fair Hearing as an observer.

Petitioner did not introduce any exhibits at the Fair Hearing. Prior to the Fair Hearing, Respondent sent to the Office of Fair Hearings (“Office”) and Petitioner a 316-page evidence packet, which was admitted into evidence as Respondent’s Composite Exhibit 1. Respondent’s Composite Exhibit 1 includes the following documents: a Medicaid Fair Hearing Case Summary; Humana’s plan appeal information; a Notice of Adverse Benefit Determination (“NABD”) (dated December 22, 2022); another NABD (dated December 22, 2022); another NABD (dated December 22, 2022); a Notice of Plan Appeal Resolution (“NPAR”) (dated December 29, 2022); another NPAR (dated December 29, 2022); another NPAR (dated December 29, 2022); Humana authorization screenshots; various medical records; Florida Department of Elder Affairs 701B Comprehensive Assessment (“701B Comprehensive Assessment”) (dated December 15, 2022); Humana’s Plan of Care; Humana’s Plan of Care Summary; Humana’s Service Gap Contingency & Back-up Plan; the Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (“LTC Policy”) (March 2017); and Humana’s Member Handbook– English and Spanish.

### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of Humana’s Long-term Care (“LTC”) program. *See* Respondent’s Composite Exhibit 1, pages 1, 50-58. Humana is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in the state of Florida. Petitioner is also an enrolled member of Medicare. *Id.* at 101.

2. As of the date of the Fair Hearing, Petitioner is [REDACTED]. *Id.* at 82. Petitioner lives [REDACTED]. *Id.* at 83. Petitioner has [REDACTED]. *Id.* at 85. Petitioner has the following medical conditions: [REDACTED]

[REDACTED];  
[REDACTED]. *Id.* at 88-89. Petitioner is diagnosed with [REDACTED]. *Id.* at 90. Petitioner does not [REDACTED]. *Id.* at 93. Petitioner is prescribed medication to be taken daily. *Id.* at 94. Petitioner does not have [REDACTED]. *Id.* at 96-98. Petitioner [REDACTED]. *Id.* at 96.

3. The 701-B Comprehensive Assessment reflects that with respect to Activities of Daily Living (“ADLs”), Petitioner needs total assistance (cannot do at all) with [REDACTED]. *Id.* at 86. Petitioner always has assistance with [REDACTED]. *Id.* Petitioner has assistance most of the time with [REDACTED]. *Id.* Further, Petitioner requires supervision because [REDACTED] however, she does not [REDACTED]. *Id.* at 91.

4. The 701-B Comprehensive Assessment reflects that with respect to Instrumental Activities of Daily Living (“IADLs”), Petitioner needs total assistance (cannot do at all) with [REDACTED] and [REDACTED]. *Id.* at 87. Petitioner needs assistance (but not total help) with using [REDACTED]. *Id.* Petitioner always has assistance with [REDACTED]. *Id.* Petitioner has assistance most of the time with [REDACTED]. *Id.*

5. On December 22, 2022, Humana issued an NABD denying Petitioner’s request for an additional 14 hours per week of homemaker services, an additional 42 hours per week of adult

companion care services, and an additional 35 hours per week of personal care services. *Id.* at

15-38. The NABD explained the basis of the denial as follows, in pertinent part:

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 59G-1.010)

...

✓ 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 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.

...

✓ **Other authority.**

The facts that we used to make our decision are:

This determination of the Medical Director has been made based on medical necessity (as defined by Florida law - specifically see checked box above) and reflects the application of the Plan's approved review criteria and guidelines.

You have requested additional 35 hours of personal care (PC), additional 14 hours of homemaker (HMK), and additional 42 hours of adult companion care (ACC) services per week. You currently receive personal emergency response system (PERS) 24/7, 49 hours of PC, 14 hours of HMK, and 14 hours of ACC services per week. You are 106 years old and live alone. You are alert and oriented to person, place, and time but incapable of remembering things. You have multiple medical problems. You require assistance with light house cleaning, meal preparation, and shopping and your current 14 hours of HMK service is sufficient to meet these

needs. We are denying your request for additional HMK hours. You require total care due to age and fragility as you are unable to leave your home. Your daughter has cameras in all areas of the house to visually see you at any time. You currently receive 77 hours of HHA care per week or 11 hours daily that should be sufficient to meet your needs. You may split your 11 hours daily into 3-4 shifts to receive care throughout the day. We are denying your requests for additional PC and ACC hours.

...

Sincerely,

Manohar K. Chenchugalla, M.D. ["Dr. Chenchugalla"]

Medical Director

Respondent's Composite Exhibit 1, pages 15-38. (Emphasis added).

6. On December 23, 2022, Petitioner requested a plan appeal. *Id.* at 4-13. On December 29, 2022, Humana issued an NPAR denying Petitioner's plan appeal. *Id.* at 40-48. The NPAR states the following, in pertinent part:

On December 29, 2022, after consideration of the information you provided to Humana Healthy Horizons Comprehensive Plan in support of your plan appeal, was reviewed by a medical director who is a MD and board certified in emergency medicine who hereby denies your plan appeal.

The reason for the decision was based on the information received. You have requested the initial request of 35 hours of personal care (PC) services be reconsidered (appeal).

[Petitioner] currently receives personal emergency response system (PERS) 24/7, 49 hours of PC, 14 hours of homemaker (HMK), and 14 hours of adult companion care (ACC) services per week. [REDACTED]. [REDACTED]

[REDACTED]

has [REDACTED]. [REDACTED] requires assistance with [REDACTED], and [REDACTED] current 14 hours of HMK service is sufficient to meet these needs. [REDACTED] requires total care due to [REDACTED]. [REDACTED]. [Petitioner] has cameras in all areas of the house

to see [REDACTED] at any time. [REDACTED] currently receives 77 hours of home health agency (HHA) care per week or 11 hours daily that should be sufficient to meet [REDACTED] needs.

After thorough review of [REDACTED] chart, we have decided to uphold the denial of 35 hours of personal care services weekly. The hours [REDACTED] is receiving should be enough to meet [REDACTED] needs and can be divided into shifts to better meet [REDACTED] needs. This determination of the Medical Director has been made based on medical

necessity (as defined by Florida law) and reflects the application of the Plan's approved review criteria and guidelines, defined in Chapter 59G-1.010 (2.83) Florida Administrative Code.

...

On December 29, 2022, after consideration of the information you provided to Humana Healthy Horizons Comprehensive Plan in support of your plan appeal, was reviewed by a medical director who is a MD and board certified in emergency medicine who hereby denies your plan appeal.

The reason for the decision was based on the information received. You have requested the initial request of 42 hours of adult companion care services be reconsidered (appeal).

[Petitioner] currently receives personal emergency response system (PERS) 24/7, 49 hours of personal care (PC), 14 hours of homemaker (HMK), and 14 hours of ACC services per week. [Petitioner] is [REDACTED]. [REDACTED] is [REDACTED].

[REDACTED] has [REDACTED]. [REDACTED]

[REDACTED] [Petitioner] has cameras in all areas of the house to see [REDACTED] at any time. [REDACTED] currently receives 77 hours of home health agency (HHA) care per week or 11 hours daily that should be sufficient to meet [REDACTED] needs. [REDACTED] has aides to give [REDACTED] company when they are around.

After thorough review of [REDACTED] chart, we have decided to uphold the denial of 42 hours of adult companion care services weekly. The hours [REDACTED] is receiving should be enough to meet her needs and can be divided into shifts to better meet her needs. This determination of the Medical Director has been made based on medical necessity (as defined by Florida law) and reflects the application of the Plan's approved review criteria and guidelines, defined in Chapter 59G-1.010 (2.83) Florida Administrative Code.

...

On December 29, 2022, after consideration of the information you provided to Humana Healthy Horizons Comprehensive Plan in support of your plan appeal, was reviewed by a medical director who is a MD and board certified in emergency medicine who hereby denies your plan appeal.

The reason for the decision was based on the information received. You have requested the initial request of 14 hours of homemaker services be reconsidered (appeal).

[Petitioner] currently receives personal emergency response system (PERS) 24/7, 49 hours of personal care (PC), 14 hours of homemaker (HMK), and 14 hours of

adult companion care (ACC) services per week. [Petitioner] is [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [Petitioner] has [REDACTED]  
[REDACTED] currently receives 77 hours of home health agency (HHA) care per week or 11 hours daily that should be sufficient to meet her needs.

After thorough review of [REDACTED] chart, we have decided to uphold the denial of 14 hours of homemaker services weekly. The hours [REDACTED] is receiving should be enough to meet [REDACTED] needs and can be divided into shifts to better meet [REDACTED] needs. This determination of the Medical Director has been made based on medical necessity (as defined by Florida law) and reflects the application of the Plan’s approved review criteria and guidelines, defined in Chapter 59G-1.010 (2.83) Florida Administrative Code.

...  
Sincerely,  
Dr. Anne Brady [“Dr. Brady”]  
Medical Director

Respondent’s Composite Exhibit 1, pages 40-48. (Emphasis added).

7. On January 9, 2023, [REDACTED] requested a Fair Hearing on behalf of Petitioner regarding the denial of additional homemaker services in AHCA Case Number 23-FH0042, the denial of additional adult companion care services in AHCA Case Number 23-FH0043, and the denial of additional personal care services in AHCA Case Number 23-FH0043. On February 27, 2023, the Hearing Officer issued a notice to all parties of record scheduling the consolidated Fair Hearing to be convened by telephone on March 20, 2023, at 1:00 p.m. EST.

8. At the onset of the Fair Hearing, [REDACTED] confirmed on the record that Humana authorized an increase in Petitioner’s services as follows: an additional 28 hours per week of adult companion care services for a total of 42 hours per week. This leaves 14 hours per week of adult companion care services in dispute. Humana also approved an additional 14 hours per week of

personal care services for a total of 70 hours per week. This leaves 14 hours per week of personal care services in dispute. Humana did not approve any additional homemaker services. Petitioner is currently approved for 14 hours per week of homemaker services. This leaves an additional 14 hours of homemaker services in dispute. In all, Petitioner was approved for a total of 126 hours per week of combined services.

9. [REDACTED] testified that Petitioner wants to reside at home rather than a facility. [REDACTED] has observed Petitioner's physical and cognitive decline over the past year, which led to the request for more services. [REDACTED] asserted that Petitioner is a fall risk, requires more assistance with walking/mobility and transferring, and has difficulty using a walker. [REDACTED] expressed concern for Petitioner's safety and well-being when home alone. [REDACTED] argued that Petitioner needs 24-hour coverage even while [REDACTED] is asleep. [REDACTED] acknowledged that Petitioner has a hospital bed with rails and alarms to prevent falls when sleeping. [REDACTED] becomes anxious and less responsive when alone.

10. Dr. Chenchugalla testified that Petitioner's services were increased prior to hearing because Humana agreed that Petitioner needed additional assistance with ADLs and IADLs as well as additional supervision. Dr. Chenchugalla asserted that Petitioner's new Plan of Care is sufficient to meet [REDACTED] needs. Dr. Chenchugalla testified that Petitioner's services can be split into shifts throughout the day to meet Petitioner's needs and prevent [REDACTED] from being alone for extended periods of time. Dr. Chenchugalla opined that Petitioner's has not declined to the extent that 24-hour coverage is medically necessary.

#### **CONCLUSIONS OF LAW**

11. 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) (2022). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

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

13. Because Petitioner is requesting new services, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to Petitioner. 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.).

14. Petitioner's request for Florida Medicaid LTC services is governed by the Florida Medicaid LTC Policy, which is incorporated by reference in Fla. Admin. Code R. 59G-4.192. See Respondent's Composite Exhibit 1, pages 129-151. The Florida Medicaid LTC Policy provides the following, in pertinent part:

**1.0 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.

...

## **4.0 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 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.

Respondent's Composite Exhibit 1, pages 129-151.

15. The Florida Medicaid Definitions Policy (August 2017), incorporated by reference in Fla. Admin. Code R. 59G-1.010, provides definitions of commonly used terms that are applicable to all sections of Rule Division 59G, Florida Administrative Code (F.A.C.), unless specifically stated otherwise in a service-specific coverage policy or rule. The Florida Medicaid Definitions Policy defines "Medically Necessary" or "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 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.

Florida Medicaid Definitions Policy (August 2017) at page 7.

### **Homemaker services**

16. In this case, Petitioner requested an additional 14 hours per week of homemaker services.

As established on the record by the evidence and testimony, Respondent denied the request after determining, based on a review of Petitioner's approved Plan of Care and the 701-B Comprehensive Assessment, that the currently approved hours are adequate to meet Petitioners' needs. *See supra* ¶ 5, 6, 8, 10.

17. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: (a) are determined medically necessary, as defined in the SMMC LTC Policy; (b) do not duplicate another service; and (c) meet the criteria as specified in the SMMC LTC Policy. *See supra* ¶ 14.

18. The testimony and evidence presented in this case reflect that Petitioner failed to show that additional homemaker services are medically necessary. Specifically, Petitioner's homemaker services failed to satisfy the medical necessity criteria, which requires that the requested services 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* ¶ 14.

19. As stated in the LTC Policy, homemaker services administered under the Florida Medicaid program provide for general household activities and routine household care by a trained homemaker, "when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities." *See supra* ¶ 14. The record indicates that Petitioner lives

alone. *See supra* ¶ 2. Petitioner currently has some level of natural support from family. *See supra* ¶ 5-6. Petitioner currently receives 126 hours per week of combined LTC services, which include 14 hours per week of homemaker services. *See supra* ¶ 8. Petitioner needs total assistance (cannot do at all) with the following IALDs: [REDACTED]. *See supra* ¶ 4. [REDACTED] asserted that Petitioner needs more homemaker services due to Petitioner's [REDACTED]. *See supra* ¶ 8. However, [REDACTED] presented no testimony or evidence as to how much time it takes to complete homemaker tasks and what specific homemaker tasks are either not completed now, or will no longer be completed, if the requested additional 14 hours of homemaker services are not approved.

20. Based on the foregoing, Petitioner has not demonstrated an unmet need for homemaker services. As such petitioner has not shown that the requested 14 additional hours of homemaker services are no in excess of Petitioner's needs.

21. Accordingly, upon consideration of both parties' testimony, Respondent's Composite Exhibit 1, and the LTC Policy, the undersigned finds that Petitioner failed to prove by a preponderance of the evidence that Respondent's denial of 14 additional hours per week of homemaker services was incorrect.

#### **Adult Companion Care services**

22. In this case Petitioner requested an additional 14 hours per week of adult companion care services. Respondent denied the request after determining, based on a review of Petitioner's approved Plan of Care and the 701-B Comprehensive Assessment, that the additional adult companion care services are not medically necessary. *See supra* ¶ 5-6.

23. As provided in the LTC Policy, the purpose of adult companion care services is to provide “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.” See supra ¶ 14. Companion care is designed to prevent social isolation or to provide supervision. See supra ¶ 14.

24. With regard to social isolation, Petitioner [REDACTED] however, [REDACTED] currently receives 126 hours of in-home care on a weekly basis. See supra ¶ 2. Petitioner talks to friends, relatives or others [REDACTED] See supra ¶ 2. Thus, the record reflects that Petitioner has the opportunity to socialize with other people, and Petitioner is not at risk for social isolation.

25. With regard to a medical need for companion care supervision, Petitioner’s 701-B Comprehensive Assessment indicates that Petitioner needs [REDACTED] [REDACTED] See supra ¶ 3. However, Petitioner does not [REDACTED] [REDACTED]. See supra ¶ 3. Since the NPAR was issued, Humana approved an additional 28 hours per week of adult companion care services for a total of 42 hours per week of adult companion care services. [REDACTED] testified that Petitioner is [REDACTED] [REDACTED] expressed concern for Petitioner’s safety and well-being when home alone. [REDACTED] argued that Petitioner needs 24-hour coverage even while [REDACTED] [REDACTED] See supra ¶ 9. Petitioner receives a total of 126 hours per week of services and monthly PERS services. Petitioner did not present evidence that Petitioner cannot be alone when sleeping or cannot be alone at times during the day if [REDACTED] home health services are split into shifts. Further, Dr. Chenchugalla provided credible and persuasive testimony that the amount of approved companion care hours is sufficient to meet Petitioner’s need for supervision. See supra ¶ 10.

26. Based on the foregoing, the Petitioner is not at risk of social isolation because [REDACTED]

[REDACTED] Although Petitioner needs a level of supervision at this time, Petitioner did not submit evidence quantifying how many additional hours of companion care Petitioner needs or what needs will go unmet with the approved hours. As such, Petitioner failed to demonstrate that an additional 14 hours of adult companion care service hours are not in excess of Petitioner's needs. *See supra* ¶ 14.

27. Therefore, upon consideration of both parties' testimony, Respondent's Composite Exhibit 1, and the LTC Policy, the undersigned finds that Petitioner failed to prove by a preponderance of the evidence that Respondent's denial of 14 additional hours per week of adult companion care services was incorrect.

#### **Personal Care services**

28. Petitioner requested an additional 14 hours per week of personal care services. As established on the record by the evidence and testimony, Respondent denied Petitioner's request for additional personal care services because the current approved hours are adequate to meet Petitioner's care needs. *See supra* ¶ 5, 6, 10.

29. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: (a) are determined medically necessary, as defined in the LTC Policy; (b) do not duplicate another service; and (c) meet the criteria as specified in the LTC Policy. *See supra* ¶ 14. The Definitions Policy requires that a request for personal care services meet all five conditions of medical necessity. *See supra* ¶ 15.

30. The testimony and evidence presented in this case reflect that an additional personal care services are not warranted in this case. Specifically, Petitioner failed to satisfy the medical necessity criteria, which requires that the requested services 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* ¶ 15.

31. The Florida Medicaid program covers personal care services that are determined to be medically necessary. *See supra* ¶ 14. Personal care services administered under the Florida Medicaid program 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.” *See supra* ¶ 14. To be medically necessary, the quantity of services at issue (e.g., 14 hours per week) must not be in excess of the recipient’s needs. *See supra* ¶ 15.

32. Here, both parties agree that Petitioner has experienced [REDACTED], and Humana recently approved an additional 21 hours per week of personal care services to meet Petitioner’s needs. *See supra* ¶ 8. [REDACTED] asserted that Petitioner needs 24 hour care. However, Petitioner did not present any evidence of the time it takes to complete personal care tasks and which tasks are either not completed now, or will no longer be completed, with the approved level of services. Dr. Chenchugalla provided credible and persuasive testimony that the currently approved services are sufficient to meet Petitioner’s needs. *See supra* ¶ 10. Dr. Chenchugalla opined that 24-hour coverage is not medically necessary at this time as the approved 126 hours per week of home health services can be split into shifts during the day to

avoid Petitioner being left alone for extended periods of time. Moreover, Petitioner has monthly PERS services for use in an emergency.

33. Based on the foregoing, the record does not demonstrate that an additional 14 hours per week of personal care services is “individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment,” and *are not* “in excess of the patient’s needs.” See supra ¶ 15. Therefore, Petitioner has not shown that the additional personal care services at issue are medically necessary.

34. Accordingly, upon consideration of both parties’ testimony, Respondent’s Composite Exhibit 1, and the LTC Policy, the undersigned concludes that Petitioner failed to prove by a preponderance of the evidence that Respondent’s denial of additional personal care services was incorrect.


**IT IS THEREFORE ORDERED AND ADJUDGED THAT:**

Respondent’s denial of 14 additional hours per week of homemaker services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s denial is **DENIED**.

Respondent’s denial of 14 additional hours per week of adult companion care services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s denial is **DENIED**.

Respondent’s denial of 14 additional hours per week of personal care services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s denial is **DENIED**.

**DONE and ORDERED** this 28th day of April 2023, in Tallahassee, Leon County, Florida.

 Laura Gallagher  
23-FH0042, 23-FH0043,  
23-FH0044  
2023.04.28 08:01:47  
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**LAURA GALLAGHER, Hearing Officer**

**Agency for Health Care Administration  
Office of Fair Hearings  
2727 Mahan Drive, Mail Stop # 11  
Tallahassee, FL 32308-5407**

**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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