



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

FILED

Apr 27, 2023, 1:23 pm

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH0047

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

At all times relevant to this proceeding, Petitioner received Medicaid benefits through Sunshine State Health Plan, Inc. On January 6, 2023, [REDACTED] (“Complainant”) requested a Fair Hearing on behalf of Petitioner based on Respondent’s denial of office visits to [REDACTED].

Pursuant to Rule 59G-1.100(9)(b)(6), Florida Administrative Code, the Hearing Officer is authorized to dismiss a request for a Fair Hearing because it is moot. The Florida Supreme Court explained in *Godwin v. State*, 593 So.2d 211 (1992) (*citing Dehoff v. Imeson*, 153 Fla. 553 (1943)) that “[a]n issue is moot when the controversy has been so fully resolved that a judicial determination can have no actual effect. . . A case is ‘moot’ when it presents no actual controversy or when the issues have ceased to exist.” *See also J.W. v. Agency for Health Care Admin.*, 178 So. 3d 542, 544–45 (Fla. 1st DCA 2015) (explaining that because J.W. received the requested treatment, “DCF was correct to dismiss J.W.’s fair hearing request under these circumstances because, once he received the continued psychiatric treatment he’d asked for, *he*

no longer needed agency review of Magellan's decision not to authorize the treatment. Rather, the issue at that point became whether Flagler Hospital could be paid by Medicaid for the services it had rendered *without prior authorization.*") (emphasis in original).

On February 21, 2023, the undersigned issued an Order Scheduling Hearing in the instant case, setting the hearing for March 14, 2023.

On February 27, 2023, Respondent filed with the Office of Fair Hearings a letter authorizing the office visits at issue. As the sole issue in the instant case the undersigned concludes that no relief that could be granted at a Fair Hearing.

On February 28, 2023, the undersigned issued an Order to Show Cause ("Order") why the Fair Hearing request should not be dismissed for mootness under Fla. Admin. Code R. 59G-1.100(9)(b)(6). The Order notified the Petitioner that failure to provide documentation to show cause why the request for a Fair Hearing should not be dismissed on or before March 10, 2023, would result in dismissal of the case.

On March 7, 2023, Complainant sent an e-mail to the Office of Fair Hearings explaining that the case was not moot. On March 14, 2023, the scheduled Fair Hearing was converted to a preliminary hearing to determine whether the issue was moot. At that hearing, the record was held open until March 24, 2023, to allow Petitioner to submit Notice documents that would confer jurisdiction to the Office of Fair Hearings.

On March 19, 2023, Petitioner submitted nine (9) pages of documents to the Office of Fair Hearings. The documents included a Notice of Plan Appeal Resolution ("NPAR"), dated December 1, 2022, and three (3) pages of faxes from Sunshine to [REDACTED]. On March 17, 2023, Petitioner submitted a one hundred and thirty-five (135) page document that included the following: an

NPAR, dated July 25, 2022; three (3) Notice of Adverse Benefit Determinations (“NABD”), dated June 9, 2022; two (2) NABDs, dated October 28, 2021; four (4) NABDs, dated November 9, 2022; three (3) NABDs, dated November 17, 2022; four (4) NABDs, dated November 26, 2022; and a Notice of Reconsideration Resolution, dated December 2, 2022.


The Office of Fair Hearings’ jurisdiction is limited to cases where the plan appeal process has been completed, and an NPAR issued. *See Fla. Admin. Code R. 59G-1.100(3)(b)(1)*. In this case, only two (2) NPARs were provided. The NPAR dated July 25, 2022, is untimely, as the Fair Hearing was not requested within 120 days of its issuance. *See Fla. Admin. Code R. 59G-1.100(8)(g)*. The NPAR dated December 1, 2022, is the NPAR in the instant case, and was overturned on February 27, 2023, by Respondent. As such, Petitioner has not provided documentation showing the Office of Fair Hearings has jurisdiction to address any remaining issues.

Based on the foregoing,

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

This case is dismissed as moot, and is now closed.

DONE AND ORDERED this 27th day of April, 2023 in Tallahassee, Leon County, Florida.

Joseph Mabry
 23-FH0047
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JOSEPH MABRY, 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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