



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

**FILED**  
May 17, 2023, 10:47 am  
OFFICE OF FAIR HEARINGS

[Redacted]

**PETITIONER,**

**AHCA Case No.: 23-FH0257**

[Redacted]

**vs.**

**HUMANA MEDICAL PLAN, INC.,**

**RESPONDENT.**

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the Office of Fair Hearings (“OFH”) convened a telephonic Medicaid Fair Hearing in the above styled case on March 16, 2023, at 10:00 a.m. Eastern Standard Time (“EST”).

**APPEARANCES**

For the Petitioner:

[Redacted]

Petitioner’s Authorized Representative

For the Respondent:

Michael Moens  
Compliance Specialist  
Humana Medical Plan, Inc.

**STATEMENT OF ISSUE**

The issue is whether the Petitioner proved by a preponderance of the evidence that Respondent’s denial of Petitioner’s request for personal care services was incorrect.

## PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. Petitioner's Designated Authorized Representative and [REDACTED] appeared at the hearing and provided testimony on the Petitioner's behalf.

Michael Moens, Compliance Specialist for Humana Medical Plan, Inc. ("Humana"), appeared for the hearing and represented Respondent. Dr. Avra Carpousis-Bowers ("Dr. Bowers"), Long Term Care Medical Director for Humana, provided testimony on behalf of the Respondent.

Stephanie Lang ("Ms. Lang"), Registered Nurse and Fair Hearing Liaison for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared for observational purposes.

Prior to the hearing, Respondent submitted a two hundred and ninety-eight (298)-page evidence package to the Office of Fair Hearings ("OFH") that was admitted into evidence without objection, is identified as Respondent's Composite Exhibit 1, and is recorded in the OFH document management system as "Evidence packet 23-FH0257\_Part1.pdf", "Evidence packet 23-FH0257\_Part2.pdf", "Evidence packet 23-FH0257\_Part3.pdf", "Evidence packet 23-FH0257\_Part4.pdf", and "Evidence packet 23-FH0257\_Part5.pdf".

Prior to the hearing, Petitioner submitted emails, photographs, and a letter from the Petitioner's primary care physician, Dr. Bautista, to the Office of Fair Hearings as proposed evidence in this matter. It was confirmed that all the Petitioner's submissions were included in the Respondents evidence package and no other evidence was admitted into evidence.

**FINDINGS OF FACT**

1. Petitioner is an enrolled member of Humana’s LTC plan. See Respondent’s Composite Exhibit 1, page 1. Humana is a managed care organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.

2. At of the time of the hearing, Petitioner is [REDACTED] who lives in a private residence with [REDACTED]. See Respondent’s Composite Exhibit 1, page 65 and 79.

3. Petitioner has the following health conditions: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Respondent’s Composite Exhibit 1, pages 75 and 44. The Petitioner had [REDACTED]  
[REDACTED]

[REDACTED] *Id.* Member has a [REDACTED]  
[REDACTED]. See Respondent’s Composite Exhibit 1, Page 75.

4. The Florida Department of Elder Affairs 701B Comprehensive Assessment (“701B”), dated December 28, 2022 (the “12/28/22 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 59. Petitioner uses [REDACTED]  
[REDACTED]

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<sup>1</sup> The Designated Authorized Representative in this matter is the Petitioner’s daughter who resides in New Jersey.

[REDACTED] *Id.* The 12/28/2022 701B also states the following:

[REDACTED]  
[REDACTED]

Respondent's Composite Exhibit 1, page 64.

5. [REDACTED] testified that there are several substantial inaccuracies in the 12/28/22 Form 701B and that [REDACTED]

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

[REDACTED] The Petitioner also [REDACTED]  
[REDACTED] Respondent's Composite Exhibit 1, page 44. Based on the testimony of the Petitioner's [REDACTED] and the Petitioner's documents admitted into evidence, the Petitioner's physical, mental, and emotional condition has declined and continues to decline since the 12/28/2 701B was completed.

6. Regarding Petitioner's Instrumental Activities of Daily Living ("IADLs"), the 12/28/22 701B reflects that Petitioner needs assistance (but not total help) with using [REDACTED]

[REDACTED]. *Id.* Petitioner needs total assistance (cannot do at all) with

[REDACTED] *See*

Respondent's Composite Exhibit 1, page 60. The Petitioner's [REDACTED] testified [REDACTED] currently takes [REDACTED]

[REDACTED]

7. On December 30, 2023, the Petitioner requested an additional 19 hours of personal care services per week. See Respondent's Composite Exhibit 1, page 3. On January 5, 2023, Respondent issued an NABD denying the requested 19 additional personal care hours per week but did approve an additional 9 hours of personal care services per week for a temporary period of 60 days.<sup>2</sup> *Id.* The NABD stated the reason for Respondent's determination as follows:

We determined that your requested services are **not medically necessary** because the services do not meet either of 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.

...

You have requested an additional 19 hours of personal care service each week. You have several (multiple) medical problems. You do not have trouble making your needs known. You do not have trouble thinking clearly or remembering things. You have a personal emergency response system.

You were recently in the hospital in November 2022 [REDACTED]

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<sup>2</sup> The Petitioner testified [REDACTED] was [REDACTED]

[REDACTED]  
the current 701B was completed and 9 days before the Respondent approved an additional 9 hours of personal care services for a period of only 60 days. See Respondent's Composite Exhibit 1, pages 3, 39, and 43.



[REDACTED]

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.

Respondent's Composite Exhibit 1, page 19.

10. Petitioner requested a Fair Hearing due to the denial of an additional 19 hours per week of personal care services. Pursuant to a March 1, 2023, Scheduling Order by this Hearing Officer, all parties were duly notified and the Fair Hearing in this matter occurred on March 16, 2023, at 10:00 a.m.

11. [REDACTED] is Petitioner's [REDACTED] testified to the following:

- a. [REDACTED] believes Petitioner needs additional personal care hours because of [REDACTED]  
[REDACTED]
- b. [REDACTED] with Petitioner and services as her caretaker. [REDACTED] works outside of the and the additional hours are to supervise [REDACTED] while  
[REDACTED]
- c. Petitioner is [REDACTED]  
[REDACTED] The Petitioner's family has had to order 3 replacement personal emergency response necklace pendants when the previous pendants were misplaced.

12. The Respondent testified that they cannot identify a diagnosis of the Petitioner's  
[REDACTED]

[REDACTED] e Petitioner's December 28, 2022, 701B states

[REDACTED].” Petitioner’s Composite Exhibit 1, pages 4 and 64. However, the Respondent’s Plan of Care document specifically states

[REDACTED]

[REDACTED] See Respondent’s Composite Exhibit 1, pages 57 and 80. The Petitioner’s [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Respondent’s Composite Exhibit 1, pages 16, 35, 39, 43, 46, 57, and 60.

13. Dr. Arthur Batista, the Petitioner’s primary care physician states in a February 2, 2023, letter as follows:

This letter is a request on behalf of my patient [REDACTED] for 2 additional hours Monday through Friday for personal care and supervision. [REDACTED] needs assistance with all ADLs, [REDACTED]. [REDACTED] There is a 2 hour window when [REDACTED] is alone with no supervision and therefore why we are requesting these 2 additional hours per day.

See Respondent’s Composite Exhibit 1, page 49.

#### **CONCLUSIONS OF LAW**

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

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

16. 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.

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

18. 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.

...

## **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:

...

##### **4.2.1.9 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.

...

##### **4.2.1.14 Personal Emergency Response Systems**

For installation and service monitoring of an electronic device connected to an enrollee’s phone that includes a portable “help” button, when provided to an enrollee at high risk of institutionalization to secure help in an emergency.

...

##### **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.

...

#### **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.

SMMC LTC Policy, pages 1-8.

19. 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.

20. The Agency’s Florida Medicaid Personal Care Services Coverage Policy, November 2016 (“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
<b>Bathing</b>	
<b>Full-body Bath:</b> Tub, shower or sponge/bed bath.	Up to 30 minutes. May rotate with partial bath based on recipient's needs
<b>Partial Bath:</b> A sponge bath includes, at a minimum, bathing of the face, hands, and perineum.	15–20 minutes per partial bath
<b>Dressing</b>	
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
<b>Grooming and Skin Care</b>	
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
<b>Positioning</b>	
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

<b>Transfers</b>	
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
<b>Toileting and Maintaining Continence</b>	
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
<b>Eating</b>	
Taking in food by any method. Extra time may be allowed for preparing a special diet.	30 minutes per meal
<b>Delegated Medical Monitoring and Activities</b>	
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.

21. In the instant case, Respondent denied an additional 19 hours per week of personal care services. *See supra* ¶ 7 and 9. As established on the record by the evidence and testimony, Respondent denied Petitioner’s request, because the documentation submitted in support of Petitioner’s request failed to establish that the requested services were medically necessary. *See supra* ¶ 7 and 9.

22. Section 4.1 of the SMMC 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 ¶ 19.

23. The evidence presented in this case reflects that Petitioner needs an additional 9 hours per week of personal care services. Specifically, Petitioner resides with [REDACTED] who works a full-time job and that the additional personal care hours are to ensure to provide for the additional assistance [REDACTED] needs with [REDACTED] ADLs and IADLs now that [REDACTED]. See supra ¶ 13. Regarding ADLs, the Petitioner’s Authorized Representative has provided testimony sufficient to demonstrate a significant change in the Petitioner’s physical and mental health that is not reflected in the 12/28/22 701B [REDACTED]

[REDACTED]

[REDACTED] 12/28/22

701B [REDACTED] In addition, the Petitioner is [REDACTED]

[REDACTED] See supra ¶ 5.

24. The Respondent testified they do not identify a diagnosis [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See supra ¶ 5.

25. Section 1.3.14 of the SMMC LTC Policy mandates 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 ¶ 19. Here, Petitioner

is currently authorized to receive the following home and community-based services: 20 hours per week of personal care services; 10 hours per week of homemaker services; and the monthly PERS. *See supra* ¶ 8.

26. Petitioner’s currently authorized personal care services are “[t]o 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* ¶ 20.

27. Considering the totality of Petitioner’s circumstances, including her medical condition and diagnoses, level of need for ADLs and IADLs, the amount of currently approved services, [REDACTED] [REDACTED] working outside the home full-time Monday through Friday, the Petitioner proved by a preponderance of the evidence that an additional 9 hours per week of personal care services are not “in excess of [Petitioner’s] needs”, are necessary to assure the Petitioner is not left unsupervised, and required to protect the Petitioner’s health, safety, and welfare. *See supra* ¶ 20 and 21.

28. The letter from Dr. Batista states:

This letter is a request on behalf of my patient [REDACTED] for 2 additional hours Monday through Friday for personal care and supervision. [REDACTED] needs assistance with all ADLs, [REDACTED] [REDACTED] There is a 2 hour window when [REDACTED] is alone with no supervision and therefore why we are requesting these 2 additional hours per day.

*See supra* ¶ 20. However, section 2.83 of the Definitions Policy mandates that “[t]he 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.” *See supra* ¶ 20.

Therefore, the letter from Dr. Batista does not, *in itself*, make the requested additional services medically necessary, but here it is true that it is medically necessary that the Petitioner not be left alone and without supervision.


29. In light of the testimony and evidence, the SMMC LTC Policy, the PC Policy, and the Definitions Policy, the undersigned Hearing Officer finds that Petitioner did meet her burden of proving that an additional 9 hours per week of personal care services are medically necessary. Accordingly, the undersigned Hearing Officer concludes that Petitioner proved by a preponderance of the evidence that Respondent's denial of the requested additional personal care services was incorrect.

**DECISION**

Respondent's denial of an additional 9 hours per week of personal care service is **REVERSED**.

Petitioner's appeal based on Respondent's denial in this matter is **GRANTED**.

**DONE AND ORDERED** this 17th day of May, 2023, in Tallahassee, Leon County, Florida.

Alan J. Leifer  
 23-FH0257  
2023.05.17 09:09:26  
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**ALAN J. LEIFER, Hearing Officer**  
**Agency for Health Care Administration**  
**Office of Fair Hearings**  
**2727 Mahan Drive, Mail Stop # 11**  
**Tallahassee, FL 32308-5407**  
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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:**

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

**Humana Medical Plan, Inc.  
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**AHCA Medicaid Hearing Unit  
MedicaidHearingUnit@ahca.myflorida.com**