



FILED

Jul 11, 2023, 8:54 am

OFFICE OF FAIR HEARINGS

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

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH0720

vs.

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

RESPONDENT.

_____ /

FINAL ORDER OF DEFAULT

At all times relevant to this proceeding, Petitioner received Medicaid benefits on a fee-for-service basis. On April 4, 2023, [REDACTED] (“Petitioner’s Authorized Representative”) requested a Fair Hearing based on Respondent’s denial of additional Behavior Analysis services. Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing on July 10, 2023, at 10:03 a.m. Eastern Standard Time.

The Order Scheduling Fair Hearing by Telephone and Prehearing Instructions, issued on June 19, 2023, informed Respondent of the following:

The Plan is ORDERED to file with the Office of Fair Hearings all legal authorities, including Medicaid rules, policies and regulations, internal plan guidelines and criteria, and contractual provisions, relied upon for its determination of any issues presented in the Fair Hearing. The Recipient must have access to this information during the course of the hearing. Failure to file these documents may result in a default final order in favor of the Recipient.

Respondent did not provide the Petitioner with the “legal authorities, including Medicaid rules, policies and regulations, internal plan guidelines and criteria, and contractual provisions, relied upon for its determination of any issues presented in the Fair Hearing.”

Florida Administrative Code Rule 59G- 1.100(16) states:

(a) A Hearing Officer shall be appointed by the Agency to preside over each fair hearing and must:

1. Ensure that the fair hearing is conducted in a manner consistent with this rule and promotes the fair, just, and speedy resolution of the proceeding,

....


(b) The Hearing Officer shall have the authority to issue any and all orders and render rulings consistent with this rule.

The undersigned concludes that Respondent's failure to provide the legal authorities for the Fair Hearing does not promote a fair or just resolution of the proceeding consistent with the Fla. Admin. Code R. 59G-100(16)(a)(1). In consideration of the foregoing and pursuant to Fla. Admin. Code R. 59G-1.100(16)(b), the undersigned issues this Final Order of Default.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Respondent's denial of additional Behavior Analysis services is **REVERSED**. Petitioner's appeal based on Respondent's denial is **GRANTED**.

DONE AND ORDERED this 11th day of July, 2023, in Tallahassee, Leon County, Florida.

 Kimberly Roche
23-FH0720
2023.07.11
08:21:32 -04'00'

KIMBERLY ROCHE, 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]

AHCA Medicaid Hearing Unit
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