



FILED

Jul 12, 2023, 9:20 am
OFFICE OF FAIR HEARINGS

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

████████████████████,

PETITIONER,

AHCA Case No.: 23-FH0799

vs.

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing in the instant case on June 13, 2023, at 9:04 a.m. Eastern Standard Time (“EST”).

APPEARANCES

For the Petitioner:

████████████████████

Authorized Representative

For the Respondent:

Lee Ann Williams
Medical Health Care Program Analyst
Agency for Health Care Administration

STATEMENT OF ISSUE

The issue is whether Respondent proved by a preponderance of the evidence that Respondent’s denial of Behavior Analysis (“BA”) services for ██████████, through ██████████ ██████████, was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared for the scheduled Fair Hearing telephonically. [REDACTED] [REDACTED] (“[REDACTED]”), Petitioner’s Authorized Representative and [REDACTED] appeared for the Fair Hearing on behalf of Petitioner, provided testimony, and did not call any witnesses.

Lee Ann Williams, Medical Health Care Program Analyst for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared for the Fair Hearing as the representative for Respondent. Dr. Alissa Conway (“Dr. Conway”), a Board-Certified Behavior Analyst at the doctoral level (“BCBA-D”) for eQHealth Solutions, appeared for the Fair Hearing as a witness for Respondent.

Interpreter George, ID No. 31578792 with Global Interpreting Network, appeared for the Fair Hearing to provide Spanish language translation services on behalf of Petitioner.

Petitioner did not introduce any exhibits at the Fair Hearing. Prior to the Fair Hearing, Respondent filed with the Office of Fair Hearings a one hundred and fifty-seven (157)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ case management system as “[REDACTED] FH 06.13.2023.pdf.” Without objection, the evidence was admitted into evidence as Respondent’s Composite Exhibit 1.

Prior to the Fair Hearing, Respondent sent to the Petitioner a forty-nine (49)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ case management system as “23-FH0799 AHCA Evidence Packet 49 pages.pdf.” Without objection, the evidence packet was admitted into evidence as Respondent’s Composite Exhibit 2.

FINDINGS OF FACT

1. Petitioner receives Medicaid services on a fee-for-service basis through the Agency. *See* Respondent’s Composite Exhibit 1, page 21. eQHealth is a Quality Improvement Organization

contracted by the Agency to review prior authorization requests for Medicaid services, including Behavior Analysis services, to ensure that the request meets medical necessity. See Respondent's Composite Exhibit 2 at page 2.

2. As of the date of the Fair Hearing, Petitioner is [REDACTED] ([REDACTED] [REDACTED] old and diagnosed with [REDACTED]. See Respondent's Composite Exhibit 1 at page 21. The Behavior Analysis service provider in this case is [REDACTED]. *Id.* According to the Behavior Analysis Services Plan, dated March [REDACTED] ("Treatment Plan"), at issue, Petitioner engages in the following maladaptive behaviors: [REDACTED]
[REDACTED]
[REDACTED]. *Id.* at 58-59.

3. Data graphs for maladaptive behaviors in the Treatment Plan show the following: incidents of [REDACTED] decreased from [REDACTED] incidents of [REDACTED] decreased from [REDACTED] to [REDACTED] incidents of [REDACTED] stayed at [REDACTED] incidents of [REDACTED] stayed at [REDACTED] incidents of [REDACTED] decreased from [REDACTED] to [REDACTED] incidents of [REDACTED] increased from [REDACTED] to [REDACTED] incidents of [REDACTED] stayed at [REDACTED] and incidents of [REDACTED] decreased from [REDACTED] to [REDACTED]. *Id.* at 80-81.

4. On April 4, 2023, Respondent issued a Notice of Outcome – Denial ("NOO") denying Petitioner's request for BA services. *Id.* at 28-29. The NOO states the following, in pertinent part:

Code: 97156
Description: Family training, per 15 minutes, Lead Analyst
From: 3/23/23
Thru: 9/18/23
Total Units: Denied – 309

Code: 97153
Description: Intervention without protocol modification, per 15

minutes, Lead Analyst, BCaBA, or RBT
From: 3/23/23
Thru: 9/18/23
Total Units: Denied – 2,575

The request for services is denied in whole or in part because they are not medically necessary as defined in 59G-1.010, Florida Administrative Code. Specifically, the requested services are not medically necessary under the following standard(s):

Consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational

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

Furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider

The rationale for our decision is as follows:

PR Principal Reason - Denial:

Submitted information does not support the medical necessity for requested frequency and/or duration.

Requested services are denied because documentation is neither showing Improvement nor support for maintenance.

PR Clinical Rationale - Denial: The request for treatment is denied. The previous BA services with this provider for this recipient were denied due to a lack of progress and held up at reconsideration.

Id.

5. On April 11, 2023, Respondent issued a Notice of Reconsideration Determination ("NRD") upholding the denial of Behavior Analysis services. *Id.* at 39-40. The NRD also states the following: "PR Recon Determination: This request for treatment was previously denied due to a lack of progress. This denial is upheld." *Id.*

6. On April 10, 2023, ██████████ requested a Fair Hearing on behalf Petitioner based on the denial of BA services. *Id.* at 8. On May 4, 2023, the undersigned Hearing Officer issued a notice

to the parties of record scheduling the Fair Hearing for June 13, 2023, at 9:00 a.m. EST. *Id.* at 8-19. At the onset of the Fair Hearing, both parties agreed that Petitioner received Behavior Analysis services in the past but is not currently receiving such services.

7. [REDACTED] testified that Petitioner's current school only permits [REDACTED] attendance when a Behavior Analysis RBT is present. Petitioner engages in [REDACTED] in the school setting. At home, Petitioner engages in [REDACTED] and is [REDACTED]. [REDACTED] pointed out that Petitioner [REDACTED], and that it has helped reduce maladaptive behaviors. [REDACTED] asserts that the Petitioner made progress through Behavior Analysis services received in the past. [REDACTED] argues that Petitioner has been through a lot of changes in the past [REDACTED] and that [REDACTED] has made noticeable improvements that should be considered.

8. Dr. Conway established that Petitioner previously received BA services from [REDACTED] [REDACTED] in [REDACTED] through [REDACTED] or over [REDACTED] [REDACTED] BA services were terminated with this provider due to Petitioner's lack of progress and the absence of modifications to the Treatment Plan to address Petitioner's lack of progress. Subsequent to the termination of BA services, the provider submitted a new request for services that was denied. Dr. Conway explained that, with the current request, the provider replaced the data graphs contained in the Treatment Plan and she suggested that the data graphs lack credibility because services were not being provided after the termination of service.

9. Dr. Conway testified concerning the following problems with the Treatment Plan. The Treatment Plan data graphs display the frequency of behaviors in the home environment only. Data collected in the school environment was removed from the version of the Treatment Plan

at issue in this case. *Id.* at 80-81. With regard to maladaptive behaviors, the data graphs show: no improvement for maladaptive behaviors of [REDACTED]; variable data for [REDACTED]; and virtually no improvement for [REDACTED]. *Id.* at 80. The data graphs for maladaptive behaviors show that no interventions were made to address Petitioner’s lack of progress. *Id.* The Treatment Plan indicates that the RBT provides training to the school bus driver. *Id.* at 56. However, professional standards of care in ABA require such training to be performed by a lead analyst, and not the RBT. Overall, Dr. Conway pointed out that the main intervention in the Treatment Plan involves the use of [REDACTED], and that this intervention does not require the level of BA services requested to implement. Additionally, the data graphs for target or replacement behaviors show progress; however, because the provider converted the data graphs for replacement behaviors from “frequency of occurrence” to “percentage of opportunity,” Dr. Conway questioned the accuracy of the data. *Id.* at 80 and 153. Finally, the data graphs for the [REDACTED] intervention show an increasing trend, and the provider has not submitted any modifications to The Treatment Plan to address the lack of progress. *Id.* at 82-83. Dr. Conway asserted that, for the foregoing reasons, the Treatment Plan does not meet standards of care in the field of ABA and is intended for the convenience of the recipient’s school, which requires Petitioner to attend with an RBT present.

CONCLUSIONS OF LAW

10. The Agency’s Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to section 409.285(2), Florida Statutes (2022). This order is the final administrative decision of AHCA under section 409.285(2)(a).

11. This hearing was held as a *de novo* proceeding pursuant to Rule 59G-1.100(17)(b), Florida Administrative Code (F.A.C.), which states “[e]ach fair hearing shall be a *de novo*, evidentiary proceeding, and shall be conducted in a manner that meets the requirements of this rule.”

12. Because Petitioner is requesting a new service, Rule 59G-1.100(17)(g), F.A.C., 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.).

13. The Florida Medicaid Behavior Analysis Policy (October 2017) (“BA Policy”), incorporated by reference in Rule 59G-4.125, F.A.C., establishes the provision of Behavior Analysis services to Medicaid recipients under the age of 21 years. See Respondent’s Composite Exhibit 2 at pages 38-47. The BA Policy provides as follows, in pertinent part:

1.0 Introduction

Behavior analysis (BA) services are highly structured interventions, strategies, and approaches provided to decrease maladaptive behaviors and increase or reinforce appropriate behaviors.

...

1.4.5 Medically Necessary/Medical Necessity

As defined in Rule 59G-1.010, F.A.C.

...

4.0 Coverage Information

4.1 General Criteria

Florida Medicaid covers services that meet all of the following:

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

4.2 Specific Criteria

Florida Medicaid covers the following BA services in accordance with the applicable Florida Medicaid fee schedule(s), or as specified in this policy:

4.2.1 Behavior Assessment

One per fiscal year, per recipient, when completed within 30 days of the start of the assessment.

4.2.2 Behavior Analysis

Up to 40 hours per week, per recipient, consisting of services identified on the recipient's behavior plan in order to reduce maladaptive behaviors and to restore the recipient to his or her best functional level. Services include:

- Implementing behavior analysis interventions, and monitoring and assessing the recipient's progress towards goals in the behavior plan
- Behavior analysis interventions, for example, discrete trial teaching, task analysis training, differential reinforcement, non-contingent reinforcement, conducting task analyses of complex responses, and teaching using chaining, prompting, fading, shaping, response cost, and extinction
- Training the recipient's family, caregiver(s), and other involved persons on the implementation of the behavior plan and intervention strategies (the recipient must be present when clinically appropriate)

4.3 Early and Periodic Screening, Diagnosis, and Treatment

As required by federal law, Florida Medicaid provides services to be eligible recipients under the age of 21 years, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. Included are diagnostic services, treatment, equipment, supplies, and other measures described in sectioned 1905(a) of the Social Security Act, codified in Title 42 of the United States Code 1396d(a). As such, services for recipients under the age of 21 year exceeding the coverage described within this policy or the associated fee schedule may be approved, if medically necessary. For more information, please refer to Florida Medicaid's General Policies on authorization requirements.

Respondent's Composite Exhibit 2 at pages 40-42.

14. Appendix 9.0 of the BA Policy provides the Review Criteria for Behavior Analysis Services.

Id. at pages 45-47. The Review Criteria state as follows, in pertinent part:

Review Criteria for Behavior Analysis Services

Behavior analysis (BA) services are considered as either the treatment of choice or as an adjunct treatment modality for a variety of conditions and disorders where maladaptive behaviors are part of the recipient's clinical presentation, including behavioral manifestations of diagnoses such as autism spectrum disorder and other behavioral health conditions.

Critical Elements Necessary for ANY Type of Behavior Analysis Service:

The following critical elements **MUST** be satisfied to qualify for BA services:

- a. Eligibility – The recipient must meet all criteria for BA services as outlined in the Behavior Analysis Services Coverage Policy, Rule 59G-4.125, F.A.C.

- b. Medical necessity – The recipient must meet medical necessity criteria as outlined in Rule 59G-1.010, F.A.C.
- c. The recipient currently engages in maladaptive behaviors
- d. These maladaptive behaviors interfere with the recipient’s daily functioning

...

1. Criteria for Initial Behavior Analysis Assessment - BOTH of the following **MUST** be satisfied:

- a. **ALL** critical elements are met
- b. Provide submits a valid written physician’s order as stipulated in the Behavior Analysis Services Coverage Policy, Rule 59G-4.125, F.A.C.

...

2. Criteria for Behavior Analysis Services and Reassessments – ALL of the following **MUST** be satisfied:

- a. **ALL** critical elements are met
- b. An assessment or, if applicable, a reassessment, authored by a lead analyst, is provided. An assessment of the maladaptive behavior(s) is a necessary element of the process of identifying the frequency and magnitude of the behaviors as well as the variables associated with the occurrence of the maladaptive behavior(s). This helps in defining what are the functional consequences of the problem behavior(s) so that an adequate behavior plan can be implemented. This (re)assessment **MUST** include, at a minimum, **ALL** of the following:
 - i. A clear operational description of the maladaptive behavior(s)
 - ii. Baseline and/or updated treatment data (if reassessment)
 - iii. Progress toward identified goals (if a reassessment)
 - iv. Identification of the events, times, and situations that appear to be associated to the occurrence of the maladaptive behaviors

...

- c. A behavior plan authored or updated by a lead analyst. The behavior plan is the cornerstone of the delivery of behavior analysis services and it is based on the information obtained in the assessment. It proposes specific interventions to reduce or eliminate the maladaptive behavior. These interventions take into consideration the variables, both present before the behavior, as well as after the behavior, that influence the occurrence of the maladaptive behavior(s). This plan also includes replacement appropriate behaviors for the recipient to engage in instead of the maladaptive behaviors in order to obtain the same function. The plan must be detailed enough to warrant the requested services and include mechanisms to monitor its effectiveness. This **MUST** include, at a minimum, **ALL** of the following:
 - i. Observable and measurable descriptions of the maladaptive behavior(s)

- ii. Identified function of the maladaptive behavior(s) behavior as a result of the assessment or reassessment conducted
- iii. Goals and strategies for changing the maladaptive behavior(s)
- iv. Written detailed description of when, where, and how often these goals will be addressed and proposed strategies will be implemented
- v. System for monitoring and evaluating the effectiveness of the plan
- vi. Safety and crisis plan, if applicable
- vii. Summary and recommendations
- viii. Discharge criteria
- ix. Transition plan (if applicable)

NOTE: Although the assessment and behavior plan were addressed separately in section 2, both of them can be submitted as a single document.

...

4. Criteria to Assess the Intensity of Behavior Analysis Services: Providers may request up to 40 hours of BA services per week, per recipient, based upon the following:

As a rule, higher number of maladaptive behaviors, higher severity and frequency of behaviors, as well as the multiplicity of settings where the behaviors occur, would usually justify a higher number of services hours. The greater the number of goals targeted to reduce maladaptive behaviors, the more the likelihood that a higher number of services hours could also be warranted.

Providers **MUST** ensure that proper justification for the requested hours of services is adequately documented in the behavior plan. Based on the information provided in the assessment, behavior plan, and any other supporting documentation, the reviewer utilizes the information provided below as a guide as it relates to the level of functional impairment as expressed through the following behaviors:

- i. Safety – aggression, self-injury, property destruction, elopement
- ii. Communication – problems with expressive/receptive language, poor understanding or use of non-verbal communications, stereotyped, repetitive language
- iii. Self-stimulating, abnormal, inflexible, or intense preoccupations
- iv. Self-care - difficulty recognizing risks or danger, grooming, eating, or toileting
- v. Other – behaviors not identified above

Id. at 45-46.

15. States must provide Early and Periodic Screening, Diagnostic, and Treatment (“EPSDT”) services to Medicaid-eligible children under age 21 when requested under the Medicaid state plan. *See* 42 U.S.C. § 1396a(a)(43); 42 U.S.C. § 1396d(a)(4). According to 42 U.S.C. § 1396d(r)(5), EPSDT services mean, in relevant part, the following items and services:

Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illness and conditions discovered by the screen services, whether or not such services are covered under the state plan.

16. Petitioner is under the age of 21 years, and therefore EPSDT applies to [REDACTED] request for services. However, a state may place medical necessity limitations on EPSDT services. *See* 42 C.F.R. §§ 440.230(a), (b), (d). Section 409.905(2), Florida Statutes, limits EPSDT services with a medical necessity standard:

The [Agency] shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

17. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), incorporated by reference in Rule 59G-1.010, F.A.C., 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.

Id. at 18.

18. The Florida Medicaid Authorization Requirements Policy (June 2016) (“Authorization Requirements Policy”), incorporated by Rule 59G-1.053, F.A.C., provides general requirements for providers to obtain authorization to render Florida Medicaid services. *Id.* at 30-33. The

Authorization Requirements Policy states the following, in pertinent part:

1.2 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 Authorization

The process of obtaining approval for reimbursement of a service based on medical necessity.

...

1.3.6 Provider

The term used to describe any entity, facility, person, or group that has been approved for enrollment or registered with Florida Medicaid.

1.3.7 Quality Improvement Organization

Entity designated to perform utilization review, quality assurance, and quality improvement activities for Florida Medicaid-covered services rendered by fee-for-service providers (also known as the QIO).

...

2.0 Authorization Requirements

...

2.4.2 Requests for Additional Information

The QIO may request additional information, as necessary, to determine medical necessity.

...

3.0 Determination Process

3.1 Review Criteria

The QIO may use a national standardized set of criteria, or other set of criteria, approved by AHCA, as a guide for authorizations performed at the first review level. If services cannot be approved at the first level review, the QIO's physician peer reviewer will determine medical necessity using his or her clinical judgment, acceptable standards of care, state and federal laws, and AHCA's medical necessity definition.

3.2 Review Process

The QIO will review each authorization request and will approve, deny, or request additional information. The QIO may deny a portion of the requested units of service if it cannot substantiate medical necessity based upon the information submitted.

3.2.1 Continued Authorization Requests

The QIO shall not deny or reduce the amount, frequency, or duration of a service that is already being provided, unless:

- The reduction is to correct for factual errors or omissions in prior certifications.
- There is a documented improvement in the recipient's medical condition.
- There is a documented change in the recipient's circumstances.
- The reviewing physician determines the recipient will not gain any additional benefit by continuing services at the current level.

Id. at 32-33.

19. In the instant case, Petitioner is under the age of 21 and therefore EPSDT applies to ■■■ request for Behavior Analysis services. Specifically, Petitioner's Behavior Analysis provider requested three hundred and nine (309) units of Code 97156 - Family training, per 15 minutes, Lead Analyst, and 2,575 units of Code 97153 - Intervention without protocol modification, per 15 minutes, Lead Analyst, BCaBA, or RBT, for the certification period of March 23, 2023, through September 18, 2023. See supra ¶ 4. Respondent denied Petitioner's request based on a failure to meet the following medical necessary criteria: consistent with generally accepted professional

medical standards as determined by the Medicaid program, and not experimental or investigational; 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; and furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider. *See supra* ¶ 5.

20. Pursuant to the Behavior Analysis Coverage Policy, the critical elements necessary for any type of BA service are: (a) eligibility – the recipient must meet all criteria for Behavior Analysis services as outlined in the Behavior Analysis Services Coverage Policy, Rule 59G-4.125, F.A.C; (b) medical necessity – the recipient must meet medical necessity criteria as outlined in in Rule 59G-1.010, F.A.C; (c) the recipient currently engages in maladaptive behaviors; and (d) these maladaptive behaviors interfere with the recipient's daily functioning. *See supra* ¶ 14-15. The Moreover, the Treatment Plan is the “cornerstone of the delivery of behavior analysis services and it is based on the information obtained in the assessment.” Pursuant to section 2.83 of the Florida Medicaid Definitions Policy, all five (5) conditions of Medical Necessity must be met for “medical . . . services furnished or ordered” to be determined medically necessary. *See supra* ¶ 17. The QIO may deny a request if it cannot substantiate medical necessity based on the information submitted. *See supra* ¶ 18.

21. In this case the record does not reflect that the requested BA services meet medical necessity criteria. Dr. Conway provided credible and persuasive testimony that the treatment plan did not meet standards of care in ABA. *See supra* ¶ 8, 9. Data graphs for maladaptive behaviors were incomplete as data was not shown for the school environment. *See supra* ¶ 8,9. Data graphs show a lack of progress as follows: no improvement for maladaptive behaviors of

[REDACTED]

[REDACTED]; variable data for [REDACTED]; and virtually no improvement for [REDACTED]. See supra ¶¶ 3-5, 7, 8. The data graphs for the [REDACTED] show an increasing trend. The data graphs do not reflect any modifications to address Petitioner's lack of progress with maladaptive behaviors or [REDACTED]. See supra ¶¶ 3, 4, 7, 8. In the Treatment Plan the RBT provides training to the school bus driver; however, professional standards of care in ABA require such training to be performed by a lead analyst. See supra ¶¶ 8, 9. Dr. Conway also established that the units of services requested were in excess of Petitioner's needs because the main intervention involves the use of [REDACTED] to [REDACTED], and implementing this intervention does not require the requested level of BA services. See supra ¶¶ 8, 9. Finally, Dr. Conway was unable to substantiate the data graphs for target or replacement behaviors because the provider converted the data from "frequency of occurrence" to "percentage of opportunity" and because Petitioner has not been receiving BA services from the provider subsequent to termination. See supra ¶¶ 8, 9. Based on the foregoing, the record reflects that the Treatment Plan is intended for the convenience of the recipient's school, which requires Petitioner to attend with an RBT present. See supra ¶¶ 4, 9.

22. Accordingly, for the foregoing reasons, Petitioner has not met their burden of proof to show that the requested Behavior Analysis services are medically necessary. Looking at all the evidence relevant to the particular needs of Petitioner, the requested Behavior Analysis services at issue are not necessary to correct or ameliorate a defect or a physical and mental illness or condition.

23. Therefore, in light of both parties' testimony, Respondent's Composite Exhibit 1, Respondent's Composite Exhibit 2, and the applicable laws and policies, the undersigned Hearing Officer finds that Petitioner has not proven by a preponderance of the evidence that Respondent's denial of Behavior Analysis services was incorrect.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Respondent's denial of Petitioner's request for Behavior Analysis services for March 23, 2023, through September 18, 2023, is hereby **AFFIRMED**. Petitioner's request for relief is **DENIED**.

DONE AND ORDERED this 12th day of July, 2023, in Tallahassee, Leon County, Florida.

Laura Gallagher

23-FH0799



2023.07.12

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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.

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