



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

FILED

Jul 31, 2023, 8:14 am
OFFICE OF FAIR HEARINGS

[REDACTED],

PETITIONER,

AHCA Case No.: 23-FH0929

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

FINAL ORDER

Pursuant to notice, a hearing officer with the Office of Fair Hearings convened a telephonic Fair Hearing on the instant case on June 23, 2023, at 10:00 a.m. Eastern Standard Time and July 5, 2023, at 1:00 p.m. EST.

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's 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 termination of Petitioner's prescribed pediatric extended care ("PPEC") services was correct.

PRELIMINARY STATEMENT

All parties appeared telephonically. [REDACTED] (“[REDACTED]”), Petitioner’s Authorized Representative and [REDACTED] appeared on behalf of Petitioner at the June 23, 2023, and July 5, 2023, hearings. Jessica Medina, owner of [REDACTED] (“PPEC”) center, appeared as a witness for Petitioner at the June 23, 2023, hearing only. Dr. [REDACTED] (“[REDACTED]”), Petitioner’s primary care physician, appeared as a witness for Petitioner at the July 5, 2023, hearing only.

Diane Hearod and Chrissie Simmons, Medical/Health Care Program Analysts for the Agency for Health Care Administration (“Agency” or “AHCA”), appeared on behalf of Respondent at the June 23, 2023, hearing. Lee Ann Williams, Medical Health Care Program Analyst for the Agency, appeared as the representative for Respondent at the July 5, 2023, hearing. Dr. Chris Kunis (“Dr. Kunis”), Medical Director with eQHealth Solutions of Florida, Inc. (“eQHealth”) and Kepro, attended as a witness for Respondent at the June 23, 2023, and July 5, 2023, hearings.

Petitioner did not introduce any exhibits at the hearing. Prior to the hearings, Respondent sent to the Office of Fair Hearings and Petitioner a two hundred and forty-three (243)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ document management system as “[REDACTED] FH 06.23.2023.pdf.” Absent an objection from the Petitioner, the evidence packet was admitted into evidence as Respondent’s Composite Exhibit 1.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a forty-six (46)-page evidence packet. The evidence packet appears in the Office of fair hearings’ case management system as “23-FH0929 AHCA Evidence Packet.pdf.” Absent an objection from the Petitioner, 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 from the Agency. eQHealth is a Quality Improvement Organization (“QIO”) contracted by the agency to review prior authorization requests for services, such as behavior analysis services, and to act as a witness for the Agency in all Fair Hearing proceedings resulting from such decisions. See Respondent’s Composite Exhibit 2 at page 2.

2. Petitioner is [REDACTED] ([REDACTED]-[REDACTED]) old with a complex medical history. See Respondent’s Composite Exhibit 1 at page 16, 237. As Dr. Kunis established, Petitioner has received PPEC services since [REDACTED], or for approximately [REDACTED] *Id.* at 17. Petitioner’s current diagnoses are:

[REDACTED]

[REDACTED]

[REDACTED]. *Id.* at 16.

3. Petitioner’s FL HH Assessment [REDACTED], finalized by [REDACTED], and dated [REDACTED], states the following concerning Petitioner’s medical condition. With regard to Petitioner’s overall status, Petitioner is “[REDACTED].”

Id. at 59. Petitioner had [REDACTED] as of the date of the assessment. *Id.*

Petitioner does not require any skilled nursing respiratory services, such as suctioning, ventilator, BiPAP/CPAP, or oxygen. *Id.* at 61, *see also* Petitioner’s Plan of Care, *Id.* at 215. Petitioner does not

receive any intravenous (“IV”) medications or fluids. *Id.* at 60, *see also* Petitioner’s Plan of Care,

Id. at 215. Petitioner is [REDACTED], and [REDACTED]

¹ The record reflects that [REDACTED], has been on Petitioner’s multidisciplinary care coordination team since [REDACTED]. *Id.* at 190.

██████████. *see also Id.* at 73. However, Petitioner does not use any ██████████ for nutrition and does not require ██████████ precautions. *Id.* at 62, *see also* Petitioner’s Plan of Care, *Id.* at 215. Petitioner does not have seizures or spasms, or wounds or stomas. *Id.* at 62-63. The assessment states the following regarding Petitioner’s ability to ambulate: ██████████
██████████; Petitioner’s ability to ██████████ is age appropriate; Petitioner’s ability to ██████████ is age appropriate; Petitioner’s ability to ██████████ is age appropriate except for ██████████ *Id.* at 60, 64; *See also Id.* at 73 – 75, 179. Petitioner requires physical therapy to improve development and ██████████. *Id.* at 60, 64. Petitioner’s Activities of Daily Living (“ADLs”) (such as elimination status, grooming, dressing, bathing, transferring) are age-appropriate. *Id.* at 62, 64.

4. Petitioner’s primary care physician, ██████████, testified that Petitioner currently takes the following medications: ██████████

██████████. *See also Id.* at 238-239.

5. Petitioner’s Plan of Care specifies the following tasks to be performed at PPEC:

- Nurse to complete daily head to toe assessment
- TPR [temperature, pulse, and respirations] daily and pm, Daily I&O [intake and output], BP [blood pressure]
- Daily hygiene requirements
- Nurses to do daily follow-up of developmental therapies/goals including but not limited to ROM [range of motion] and in accordance with therapist’s plan of care
- Daily medication administration – monitor effects
- Nurse to assess family/caregiver knowledge & compliance with child’s care needs and provide education/reinforcement of skills as indicated
- Monitor mobility.

Id. at 215, 243.

6. Petitioner requested continuation of PPEC services for the certification period of March 30, 2023, through September 25, 2023. *Id.* at 25. In a Notice of Outcome (“NOO”), dated April 6, 2023, Respondent terminated Petitioner’s PPEC services. *Id.* at 25-27. The NOO explained the basis of the termination as follows:

[T]he requested services are not medically necessary under the following standard(s):

Individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient’s needs.
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.

...

The NOO further stated:

Submitted information does not support the medical necessity for requested services.

Clinical Rationale for Decision: request is for PPEC for this almost [REDACTED] old with [REDACTED].
Child [REDACTED] no scheduled meds at PPEC; no [REDACTED];
no documented [REDACTED]. These clinicals do not justify the medical necessity of skilled nursing. Deny this request.

Id. at 25-26.

7. On April 5, 2023, Petitioner requested reconsideration. *Id.* at 40. On April 26, 2023, Respondent issued a Notice of Reconsideration Determination (“NRD”) upholding the termination. *Id.* at 40-41. The NRD states as follows, in pertinent part:

[T]he reason for the denial is that the services are not medically necessary as defined in 59G-1.010, Florida Administrative Code. Specifically the services must be:

Individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient’s needs.

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.

The medical basis for the reconsideration decision is as follows:

PR Recon Determination: [REDACTED] The patient is [REDACTED], has not had any reported [REDACTED], has not had any [REDACTED]. Nursing needs consist of daily/PRN meds and nebs and monitoring.

Uphold denial of all PPEC units. The submitted documentation was reviewed. The patient lacks sufficient skilled nursing needs to warrant PPEC care.

Id.

8. On April 25, 2023, Petitioner requested a Fair Hearing to challenge the termination of PPEC services. On May 31, 2023, an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions was issued setting the hearing for June 23, 2023, at 10:00 a.m., EST. At Petitioner's request with the concurrence of Respondent, on June 23, 2023, an Order Granting Continuance and a second Order Scheduling Fair Hearing by Telephone and Prehearing Instructions were issued setting the hearing for July 5, 2023, at 1:00 p.m., EST. As Dr. Kunis confirmed at hearing, Petitioner received administrative approval of PPEC services, or continuation of PPEC services, pending the outcome of the Fair Hearing. *Id.* at 18.

9. At the Fair Hearing, Dr. Kunis established the following:
- a. Petitioner's care coordination team includes registered nurses and has been following Petitioner's care since [REDACTED]
 - b. Petitioner's care coordination team reviewed Petitioner's request for continuation of PPEC services. The first physician reviewer at eQHealth recommended the

termination of PPEC services because the clinical information does not support the medical necessity of PPEC services. *Id.* at 21.

c. On reconsideration, a second physician at eQHealth conducted a peer review. The peer review included consideration of an administrative note, which states, “this patient requires medical supervision due to [REDACTED]. Please see the additional notes from the patients pcp [REDACTED].” *Id.* The second physician upheld the termination and noted, “[t]he submitted documentation was reviewed. The patient lacks sufficient skilled nursing needs to warrant PPEC care.”

d. Dr. Kunis agreed with the two previous physician reviewers that PPEC skilled nursing services are in excess of Petitioner’s needs at this time and that less costly alternatives are available. In making his determination, Dr. Kunis considered the clinical care notes dated [REDACTED], through [REDACTED]. *Id.* at 73-208. The notes reflect that Petitioner receives physical therapy (“PT”), speech therapy (“ST”), and occupational therapy (“OT”) 3 times per week at the PPEC center. *Id.* at 73. Further, Petitioner is followed by a [REDACTED] due to [REDACTED], [REDACTED] due to [REDACTED], [REDACTED], primary care physician, and a [REDACTED] physician to monitor the [REDACTED]. *Id.* On [REDACTED], Petitioner had a [REDACTED] and was diagnosed with [REDACTED] [REDACTED]. *Id.* at 158. Petitioner had an [REDACTED] and [REDACTED]. *Id.* at 237. More recently, on [REDACTED], Petitioner visited the [REDACTED] and there were no changes ordered. *Id.* On [REDACTED], Petitioner visited the [REDACTED] and the medication [REDACTED] was discontinued. *Id.* On [REDACTED], the neurologist ordered a routine [REDACTED] to check the status of Petitioner’s [REDACTED]

██████████, and the ██████████ has not been scheduled. *Id.* On ██████████, Petitioner visited the primary care physician with no changes to medication. *Id.* Petitioner's future appointments include a ██████████, an ██████████ appointment to discuss a ██████████, and a ██████████ appointment. *Id.*

e. Petitioner transferred from ██████████ to ██████████ on ██████████. *Id.* at 211-219. Dr. Kunis reviewed and considered Petitioner's current PPEC Plan of Care, Comprehensive Pediatric Nursing Assessment, and physician's order. *Id.* at 209-234. Dr. Kunis also considered ██████████'s assessment, dated ██████████, diagnosing Petitioner with ██████████. *Id.* at 239.

g. Dr. Kunis asserted that, based on the documentation provided, Petitioner has improved to the extent that ██████████ is now receiving monitoring and supervision services at PPEC, which are not considered skilled nursing services. Dr. Kunis noted that, although Petitioner is ██████████ ██████████ are common in children with ██████████. Dr. Kunis agreed that the continuation of ██████████ are appropriate and pointed out that these are adjunct services that can be provided outside of the PPEC setting. Dr. Kunis testified that Petitioner's absent ██████████ contributed to ██████████ which is controlled with a ██████████. However, Dr. Kunis' unrebutted testimony is that there are no daily interventions at PPEC associated with the ██████████. Moreover, Petitioner's current medications, *supra* ¶ 4, can be given by a lay person and do not require a skilled nurse to administer. Dr. Kunis noted that if Petitioner's medical

condition changes in the future, then [REDACTED] could be re-evaluated for PPEC services at that time. Dr. Kunis gave the example that if Petitioner needed a [REDACTED], then [REDACTED] could qualify for PPEC services.

10. [REDACTED] testimony established the following:

a. Petitioner had an [REDACTED] on [REDACTED], for [REDACTED]. [REDACTED] testified that Petitioner was diagnosed with a possible [REDACTED] and given [REDACTED] medicine. [REDACTED] asserted that Petitioner is diagnosed with [REDACTED] and experiences random episodes [REDACTED].

b. Petitioner is [REDACTED], [REDACTED], and [REDACTED]. The only medical equipment Petitioner uses at home is a [REDACTED].

c. A [REDACTED] was ordered in [REDACTED], but [REDACTED] has not made the appointment.

d. [REDACTED] asserted that there is a [REDACTED]-year waiting list for [REDACTED] administered outside of the PPEC setting.

11. [REDACTED] is Petitioner's primary care physician. [REDACTED] testified as follows:

a. [REDACTED]'s "biggest concern" is that Petitioner will experience a delay in receiving [REDACTED] outside of the PPEC. [REDACTED] asserted that [REDACTED] ordered home health care to administer therapies and has not heard whether the services are authorized.

b. Petitioner currently takes the following medications: [REDACTED] administered [REDACTED], [REDACTED] administered [REDACTED] per day, and [REDACTED] administered [REDACTED].

c. Petitioner has not [REDACTED].

d. In response to a question from Dr. Kunis regarding Petitioner's [REDACTED], [REDACTED], [REDACTED] testified that [REDACTED] ordered a [REDACTED] in [REDACTED], but that [REDACTED] had to reschedule the appointment several times unexpectedly.

CONCLUSIONS OF LAW

12. 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 (2019). This order is the final administrative decision of AHCA under section 409.285(2)(a).

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

14. Because Respondent terminated an existing service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to Respondent. 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.)

15. The Prescribed Pediatric Extended Care Services Coverage Policy (February 2018) ("PPEC Policy") establishes the provision and coverage of PPEC services under Florida Medicaid. The PPEC Policy states as follows:

1.1 Description

Florida Medicaid prescribed pediatric extended care (PPEC) services provide skilled nursing supervision and therapeutic interventions in a non-residential setting to medically dependent or technologically dependent recipients.

...

2.2 Who Can Receive

Florida Medicaid recipients under the age of 21 years requiring medically necessary PPEC services and who:

- Require continuous therapeutic interventions or skilled nursing supervision, as described in section 400.902, F.S., and in Rule 59A-13.007, F.A.C.

- Are determined stable by a physician and who are not a threat to self or others

...

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.

...

1.3.7 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 service
- Meet the criteria as specified in this policy

...

5.0 Exclusion

5.1 General Non-Covered Criteria

Services related to this policy are not covered 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

16. Fla. Admin. Code Rule 59A-13.007(4)(a) states the following:

(4) Each child admitted for service to a PPEC center must meet at least the following criteria:

(a) Infants and children considered for admission to the PPEC center will be those who are medically or technologically dependent. . . .

...

Further, section 400.902, Florida Statutes, describes “medically dependent or technologically dependent child” as follows:

[A] child who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse.

17. Fla. Admin. Code R. 59G-4.290 defines skilled nursing as follows:

(3) Skilled Services Criteria.

- a) To be classified as requiring skilled nursing or skilled rehabilitative services in the community or in a nursing facility, the recipient must require the type of medical, nursing or rehabilitative services specified in this subsection.
- b) Skilled Nursing. To be classified as skilled nursing service, the service must meet all of the following conditions:
 - 1. Ordered by and remain under the supervision of a physician;
 - 2. Sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse.
 - 3. Required to be performed by, or under the direct supervision of, a registered nurse or other health care professionals for safe and effect performance;
 - 4. Required on a daily basis;
 - 5. Reasonable and necessary to the treatment of a specified documented illness or injury; and,
 - 6. Consistent with the nature and severity of the individual's condition or the disease state or stage.
- c) Examples of services that qualify as skilled nursing services:
 - 1. Intravenous medication or fluids.
 - 2. Intramuscular or subcutaneous injection and hypodermoclysis when:
 - a. Administered by licensed nursing personnel at least 5 times weekly, excluding daily insulin administration; and,
 - b. Observation is necessary to assess the recipient's response to treatment or to identify adverse reactions.
 - 3. Management and monitoring medication regime on a daily basis:
 - a. For drugs whose dosage requirements may rapidly change;
 - b. For drugs prone to cause adverse reactions, severe side effects or unfavorable reactions; and,
 - c. For residents with unstable reactions.
 - 4. Levin tube and gastrostomy feedings; excluding feedings performed by residents, family members, or friends.
 - 5. Administration of medical gases, aerosolized medication or oxygen which is started, monitored and regulated by professional staff.
 - 6. Naso-pharyngeal and tracheotomy aspiration, excluding tracheotomy care in self-care residents.
 - 7. Insertion, replacement, and sterile irrigation of catheters when:
 - a. Medically necessary or required for reasons other than to maintain satisfactory catheter functioning and dryness;

- b. The medical need is documented by the physician;
 - c. Continuous irrigation, frequent insertion, special care or observation is required because of bleeding, infection, obstruction, or heavy sediment formations; and,
 - d. Care of a recently inserted supra-pubic catheter, inserted within 2-4 weeks, is required.
8. Colostomy and ileostomy care:
 - a. When medically necessary and required during early postoperative period;
 - b. During the period of initial self-care training, or
 - c. when complications are present and documented in the medical record.
 9. Treatment of decubitus ulcers when:
 - a. Deep or wide without necrotic center;
 - b. Deep or wide with layers of necrotic tissue, or
 - c. Infected and draining.
 10. Treatment of widespread infected or draining skin disorders.
 11. Application of dressings involving prescription medication and aseptic techniques when documented as required on a daily basis. Excludes simple dressings involving non-infected cases, simple skin breaks, and healed postoperative incisions.
 12. Heat treatments prescribed by a physician as daily treatment for a specific condition.
 13. Rehabilitation nursing procedures required on a daily basis as necessary to restore functioning, including teaching and adaptive aspects of nursing.

18. 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.

19. Petitioner is under age 21, and therefore eligible for EPSDT services. However, a state may

place medical necessity limitations on EPSDT services. See 42 C.F.R. §§ 440.230(a), (b), (d).

20. 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.

21. The Florida Medicaid Definitions Policy (“Definitions Policy”), incorporated by reference in Fla. Admin. Code R. 59G-1.010, defines “Medically Necessary” or “Medical Necessity” as follows:

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.

Respondent’s Composite Exhibit 2 at page 23.

22. In this case, Respondent terminated Petitioner’s PPEC services based on medical necessity criteria. *See supra* ¶ 6 – 7. Respondent explained that the request did not meet the following criteria: “individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment and not in excess of the patient’s needs,” and “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.” *See supra* ¶ 6 – 7. Respondent explained that the documentation submitted does not support the medical necessity of the requested services. *See supra* ¶ 6 – 7.

23. According to the PPEC Policy, PPEC services are intended for patients with who “require continuous therapeutic interventions or skilled nursing supervision.” *See supra* ¶ 15. As provided by the EPSDT requirements, the recipient must meet all five of the medical necessity criteria outlined in Fla. Admin. Code R. 59G-1.010. *See supra* ¶ 19. Two components of medical necessity are that services must be “[i]ndividualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient’s needs” and “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.” *See supra* ¶ 21. Dr. Kunis provided credible and persuasive testimony that Petitioner does not require skilled nursing services at this time. *See supra* ¶ 3, 4, 9, 11, 17. The record demonstrates that Petitioner is not [REDACTED]. *See supra* ¶ 4, 9. As Dr. Kunis established, the PPEC center services stated in Petitioner’s Plan of Care amount to monitoring and supervision. *See supra* ¶ 5, 9. For example, there are no skilled nursing interventions for a [REDACTED], and Petitioner has not [REDACTED] or had [REDACTED]. *See*

supra ¶ 9, 11. Further, Petitioner is not using a ventilator, BiPAP/CPAP, or oxygen. See supra ¶ 3. Petitioner does not use enteral feeds, experience seizures, receive therapy intravenously, or receive wound or stoma care. See supra ¶ 3. As ██████████ testified, the only medical equipment Petitioner currently uses at home is a ██████████ See supra ¶ 10. When specifically asked to identify Petitioner's skilled nursing needs at the Fair Hearing, ██████████ stated that her "biggest concern" is that ██████████ will be delayed if not provided at PPEC. See supra ¶ 11. As Dr. Kunis established Petitioner's ██████████, which ██████████ receives three times per week at PPEC, can be provided outside of the PPEC setting. See supra ¶ 3. In all, there is no indication that Petitioner continues to require skilled nursing services at this time. See supra ¶ 17. The record reflects that Petitioner does continue to have some medical needs, but the record does not reflect that Petitioner requires daily skilled nursing services or continuous therapeutic interventions at this time. See supra ¶ 3-7, 9, 11, 17.

24. Because Respondent demonstrated that Petitioner's medical condition has improved and ██████████ does not require daily skilled nursing services or continuous therapeutic interventions, *supra* ¶ 3-7, 9, 11, 17, PPEC services are no longer "[i]ndividualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient's needs" and "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."

25. Upon consideration of the testimony provided, Respondent's Composite Exhibit 1, Respondent's Composite Exhibit 2, and the applicable polices, the undersigned concludes that Respondent proved by a preponderance of the evidence that PPEC services are no longer medically necessary for Petitioner. Looking at all the evidence relevant to the particular needs of

Petitioner, Respondent has demonstrated that PPEC services are not necessary to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, Respondent proved by a preponderance of the evidence that Respondent's termination of PPEC services was correct.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Respondent's termination of Petitioner's PPEC services is **AFFIRMED**. Petitioner's appeal based on Respondent's termination is **DENIED**.

DONE and ORDERED this 31st day of July 2023, in Tallahassee, Leon County, Florida.

Laura Gallagher

23-FH0929

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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:



AHCA Medicaid Hearing Unit
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