



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

FILED

Oct 05, 2023, 10:28 am
OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1145

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned Hearing Officer convened a telephonic Fair Hearing on the instant case on August 22, 2023, at 1:03 p.m. Eastern Standard Time (“EST”).

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner’s Authorized Representative

For the Respondent:

Suzanne Chillari
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 decision to terminate Petitioner’s prescribed pediatric extended care (“PPEC”) services was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. Petitioner's Authorized Representative and [REDACTED], [REDACTED] ("[REDACTED]"), appeared for the Fair Hearing to provide testimony on behalf of Petitioner, and did not call any witnesses.

Suzanne Chillari, Medical/Health Care Program Analyst for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared for Fair Haring on behalf of Respondent. Dr. Rakesh Mittal ("Dr. Mittal"), Physician Consultant for eQHealth Solutions Florida ("eQHealth") and Kepro, appeared for Fair Haring as a witness for Respondent.

Prior to the hearing, the Office of Fair Hearings received a three (3)-page evidence document from Petitioner. The evidence document appears in the Office of Fair Hearings document management system as the file title "23-FH1145 Correspondence via US MAIL 07.12.23.pdf." Absent an objection from the Petitioner, the undersigned admitted the three (3)-page evidence document into evidence as Petitioner's Composite Exhibit 1 ("PCE 1").

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred and twenty-one (121)-page evidence packet and a forty-six (46)-page evidence packet. The one hundred and twenty-one (121)-page packet appears in the Office of Fair Hearings document management system as the file title "[REDACTED] FH 06.30.2023.pdf." The forty-six (46)-page evidence packet appears in the Office of Fair Hearings document management system as the file title "Agency Evidence Legal Authorities 23-FH1145.pdf." Absent an objection from the Petitioner, the undersigned admitted the one hundred and twenty-one (121)-page evidence packet into evidence as Respondent's Composite Exhibit 1 ("RCE 1") and the forty-six (46)-page evidence packet into evidence as Respondent's Composite Exhibit 2 ("RCE 2").

FINDINGS OF FACT

1. Petitioner receives Medicaid services on a fee-for-service basis from the Agency. eQHealth is a Quality Improvement Organization contracted by the Agency to review prior authorization requests for services. See RCE 2 at page 2.

2. At the time of Fair Hearing, Petitioner was [REDACTED]. See RCE 1 at page 16. Petitioner's medical history include [REDACTED]; [REDACTED]
[REDACTED]; [REDACTED]
[REDACTED]; [REDACTED]; [REDACTED]
[REDACTED]; [REDACTED]; [REDACTED]
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
[REDACTED]; [REDACTED]; [REDACTED], and
[REDACTED]. *Id.* at 16, 17, 41, 94.

Petitioner [REDACTED]
[REDACTED]. *Id.* at 17. Petitioner uses a [REDACTED], and has
[REDACTED]. *Id.* at 20, 49. Petitioner [REDACTED]
[REDACTED]. *Id.* at 21, 49. Petitioner attends [REDACTED] six (6)
days per week. *Id.* at 46. Petitioner receives [REDACTED]
[REDACTED] at the PPEC center. *Id.*

3. Petitioner is prescribed the following medication: [REDACTED]. *Id.* at 20. Petitioner's Medication Administration Record ("MAR") indicates that, in the period between [REDACTED], [REDACTED] prescribed medication was administered regularly at PPEC. *Id.* at 108-113. Petitioner was [REDACTED] and [REDACTED] at due to

[REDACTED]. *Id.* at 88, 96. Petitioner has [REDACTED]

[REDACTED]. *Id.* at 20. Petitioner had [REDACTED]

[REDACTED]. *Id.* 20, 45.

4. Petitioner requested continuation of PPEC services for the certification period of April 11, 2023, to October 7, 2023, specifically, 624 units of code T1026 (partial day services) and 156 units of code T1025 (full day services). *Id.* at 26-28. In a Notice of Outcome (“NOO”), dated April 12, 2023, Respondent terminated all units. *Id.* The NOO explained the basis for 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 or injury 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 provided:

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

Clinical Rationale for Decision: [REDACTED] with [REDACTED], [REDACTED], [REDACTED], [REDACTED]. The patient is [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED], only medication is [REDACTED], has [REDACTED]. Nursing needs consist of monitoring and supervision.

Deny all PPEC units. The patient lacks sufficient skilled nursing needs to warrant PPEC care.

...

Id. at 26-27.

5. On May 15, 2023, Petitioner requested a Fair Hearing to challenge the termination of PPEC services. On June 6, 2023, the undersigned issued an Order Scheduling Fair Hearing and

Prehearing Instructions (“Scheduling Order”), setting the hearing for June 30, 2023, at 10:00 a.m. EST. At Petitioner’s request, on July 18, 2023, the undersigned issued a Second Scheduling Order rescheduling the hearing for August 7, 2023, at 10:00 a.m. EST. Due to typographical error on the Second Scheduling Order, on August 1, 2023, the undersigned issued an Order of Continuance and Third Scheduling Order setting the hearing for August 22, 2023, at 1:00 p.m. EST.

6. Dr. Mittal is the Physician Consultant for eQHealth. Dr. Mittal established the following at Fair Hearing:

- a. eQHealth uses nurses and physicians to review plans in accordance with the medical necessity guidelines established by AHCA. The reviewers took into account Petitioner’s multiple medical conditions, the physician plan of care for PPEC services, and medical records, and determined that Petitioner does not meet the medical necessity requirements for daily skilled nursing services.
- b. Dr. Mittal contends that the summary of Petitioner’s pediatric visits on [REDACTED], and [REDACTED], denotes unremarkable physical exams and includes no diagnosis of [REDACTED]. *Id.* at 100-103, 104-106. The notes within the physician plan of care show no record of any [REDACTED]. *Id.* at 94-96.
- c. Dr. Mittal explains that the administration of Petitioner’s medications can be done by a parent or responsible adult. *See* ¶ 3.
- d. According to the outpatient review history, Petitioner’s nutrition indicates “[REDACTED].” *Id.* at 19. Dr. Mittal contends that it is unclear what diet Petitioner is on because, in his medical opinion, [REDACTED], but no notes indicate such.

7. [REDACTED] is Petitioner's [REDACTED]. [REDACTED] testified to the following at Fair Hearing:
- a. [REDACTED] argues that the most recent diagnosis from Petitioner's pediatrician has mentioned [REDACTED]. See ¶ 8. [REDACTED] states that Petitioner is on a [REDACTED], not a [REDACTED], and needs [REDACTED] to maintain proper nutrition because [REDACTED] cannot [REDACTED]. *Id.* at 17. [REDACTED] explains that Petitioner either [REDACTED]. [REDACTED] contends that [REDACTED] are only known [REDACTED].
 - b. Petitioner cannot [REDACTED] so [REDACTED]. Petitioner [REDACTED] [REDACTED] See ¶ 2. Petitioner cannot [REDACTED] which makes it difficult to help [REDACTED].
 - c. Petitioner started school in the week prior to Fair Hearing. At 2 p.m. the PPEC staff pick [REDACTED] up from school and bring [REDACTED] to PPEC center from 2:30 p.m. until 5:30 p.m. Petitioner attends PPEC all day on Saturdays. [REDACTED] argues that the PPEC staff supervise, feed, and watch Petitioner for safety. Petitioner needs assistance with activities of daily living. *Id.* at 50. [REDACTED] contends that PPEC meets Petitioner's severe needs and Petitioner has greatly improved.

8. Petitioner introduced a document entitled "Medical [Necessity] Letter" dated April 25, 2023, in support of Petitioner's request for continuation of services. The letter states as follows:

To whom it may concern [Petitioner] is a current patient of [REDACTED]
[REDACTED]. [Petitioner] is a child that suffers from the following:
Diagnosis:
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[Petitioner] is currently enrolled at [REDACTED] and receives the following Therapies:

[REDACTED] with ABA Therapy.

[Petitioner] is an [REDACTED]

[REDACTED] We ask that

[REDACTED] be granted to stay with the services that [REDACTED] has at this time. [Petitioner] shows progress with all of therapies and would benefit from continuity of care.

...

See PCE 1 at page 2.

CONCLUSIONS OF LAW

9. 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).

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

11. Because Respondent terminated a previously approved service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the 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.)

12. The Florida Medicaid Prescribed Pediatric Extended Care Services Coverage Policy (February 2018) (“PPEC Policy”), incorporated by reference in Fla. Admin. Code. R. 59G-4.260, governs PPEC services available under Florida Medicaid. The PPEC Policy provides as follows:

1.0 Introduction

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.

...

1.3.7 Medically Necessary/Medical Necessity

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

...

2.0 Eligible Recipient

...

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

...

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

4.2 Specific Criteria

Florida Medicaid covers PPEC services provided in accordance with section 400.902, F.S., the applicable Florida Medicaid fee schedule, or as specified in this policy, on a full or partial day basis. Services must include the following at a minimum:

- Caregiver training
- Developmental therapies
- An appropriate escort for travel to and from the PPEC when Florida Medicaid non-emergency transportation is provided
- Medical services
- Nursing services
- Personal care services
- Psychosocial services
- Respiratory therapy services

The PPEC day begins when the recipient arrives at the PPEC or is picked up for escorted transportation to the PPEC.

The PPEC day ends when the recipient departs from the PPEC for the day or is returned home by escorted transportation from the PPEC.

...

4.3 Early and Periodic Screening, Diagnosis, and Treatment

As required by federal law, Florida Medicaid provides services to 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 years 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.

...

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

5.2 Specific Non-Covered Criteria

Florida Medicaid does not cover the following as part of this service benefit:

- A full day and a partial day of PPEC services on the same date of service, for the same recipient
- Early intervention services when billed separately
- Food or formulas
- Supportive or contracted services as defined in section 400.902, F.S.
- Transportation services

...

See RCE 2 at pages 38-42.

13. Rule 59A-13.007(4)(a), F.A.C. 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, F.S described “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.

14. Rule 59G-4.290, F.A.C. 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.
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 age 21, and therefore EPSDT applies to this request for services.

However, a state may place medical necessity limitations on EPSDT services. *See* 42 C.F.R. §§ 440.230(a), (b), (d). Fla. Stat. § 409.905(2) 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 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.

...

See RCE 2 at 23 (emphasis added).

18. The Florida Medicaid Authorization Requirements Policy (June 2016) (“Authorization Policy”), incorporated by reference in Fla. Admin. Code R. 59G-1.053, provides as follows:

1.1 Description

This policy contains general requirements for providers to obtain authorization to render Florida Medicaid services, when applicable.

...

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.

...

See RCE 2 at 32-34.

19. In the NOO, dated April 12, 2023, Respondent terminated Petitioner’s PPEC services. See ¶ 4. The NOO explained that the basis of the termination was that the services were not “individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment”, and were “in excess of the patient’s needs.” See ¶ 4. Respondent has burden of proof to show by a preponderance of evidence that the Respondent’s determination was correct. See ¶ 11.

20. The role of PPEC services is to provide patients “who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision.” See ¶ 13. According to Rule 59G-4.290, F.A.C., skilled nursing requires that the service be, *inter alia*, sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse; required to be performed by, or under the direct supervision of, a registered nurse or other health care professionals for safe and effect performance; **required on a daily basis**; and consistent with the nature and severity of the individual’s condition. See ¶ 14 (emphasis added). As provided by the EPSDT requirements, the recipient must meet the medical necessity criteria as outlined in Fla. Admin. Code R. 59G-1.010. See ¶ 15-16. The Definitions Policy maintains a component of medical necessity 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.” See ¶ 17.

21. In the instant case, according to Dr. Mittal’s testimony, eQHealth reviewers considered Petitioner’s multiple medical conditions and the PPEC provider’s plan of care in making their determination. See ¶ 4, 6. Petitioner’s medical history include [REDACTED]

[REDACTED]; [REDACTED]; [REDACTED]

[REDACTED]; [REDACTED];
[REDACTED]; [REDACTED]; [REDACTED];
[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];
[REDACTED]; [REDACTED]; [REDACTED];
and [REDACTED]. See ¶ 2. Petitioner [REDACTED]
[REDACTED] See ¶ 2. In addition to [REDACTED] medical conditions, Petitioner
uses a [REDACTED], has [REDACTED], [REDACTED]
[REDACTED]. See ¶ 2. According to [REDACTED]'s testimony,
Petitioner [REDACTED] for [REDACTED] and [REDACTED] See ¶ 7. The
record does not indicate [REDACTED]. See ¶ 3. Petitioner [REDACTED]
[REDACTED]. See ¶ 3. Petitioner is prescribed
[REDACTED]. See ¶ 3. Petitioner's MAR log indicates that, in the period
between [REDACTED], [REDACTED] prescribed medication was administered regularly.
See ¶ 3. The record does not indicate any other medical interventions performed at the PPEC
center. See ¶ 3, 7.

22. The record indicates that Petitioner attends [REDACTED] six (6) days per
week, from 2:30 p.m. to 5:30 p.m. Monday through Friday, and all-day Saturdays. See ¶ 2, 7. The
PPEC provider's Physician Plan of Care notes indicate no record of any [REDACTED]. See ¶ 6.
Dr. Mittal contended that the summary of Petitioner's pediatric visits on [REDACTED], and
[REDACTED], denotes unremarkable physical exams and includes no diagnosis of [REDACTED]
[REDACTED]. See ¶ 6. [REDACTED] explained that the school nurse has to [REDACTED]
[REDACTED]. See ¶ 7. Dr. Mittal provided [REDACTED] medical opinion that the administration of

Petitioner's medications can be done by a parent or responsible adult. See ¶ 6. The undersigned finds that Dr. Mittal established credible and persuasive evidence that Petitioner does not require the duties of specialized treatment or skilled nursing services on a daily basis. Overall, the record does not support a finding for daily skilled nursing duties that are individualized, specific, and consistent with Petitioner's aforementioned medical conditions.

23. [REDACTED] argued that the most recent diagnosis from Petitioner's pediatrician makes mention of [REDACTED]. See ¶ 7, 8. [REDACTED] asserted that Petitioner is on a [REDACTED], not a [REDACTED], and needs [REDACTED] to [REDACTED]. See ¶ 7. Further, [REDACTED] argued that Petitioner either [REDACTED], but [REDACTED] is not often identified until [REDACTED] cries. See ¶ 7. Overall, [REDACTED] contended that PPEC services meet Petitioner's severe needs through supervision, feeding, and monitoring, and Petitioner's condition consequently improved. See ¶ 7. Petitioner introduced what is alleged to be a letter of medical necessity from Petitioner's pediatrician. See ¶ 8. The undersigned does not find this document credible or sufficient documentation to support Petitioner's arguments. This document is an email correspondence forwarded from an unknown sender identified as "[REDACTED]" from a generic and or personal "Yahoo" e-mail address. See ¶ 8. This sender is not the listed name of the primary care physician listed on any of Petitioner's medical records, nor does the document include the sender's official title, professional designation, or affiliation with the primary care physician, if any. See ¶ 8 and RCE 1 at 16, 32, 40, 43, 53-55, 93-96, 100-106. Furthermore, the content of the letter lacks sufficiency to demonstrate medical necessity. The Definitions Policy maintains 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 or a medical necessity or a covered service.” See ¶ 17.

24. In Dr. Mittal’s medical opinion, it is unclear what diet Petitioner is on because [REDACTED]. See ¶ 6. The record does not confirm any [REDACTED]. See ¶ 2-3, 6, 8. Any additional documentation to substantiate this position was not timely submitted. There is no record of [REDACTED] or [REDACTED]. See ¶ 6. The record indicates Petitioner’s [REDACTED]. See ¶ 3. Basic monitoring or supervision and administration of medications are not among the criteria under Rule 59G-4.290, F.A.C. for the purpose of requiring skilled nursing services. See ¶ 14.


25. Accordingly, based on the prior discussions, the record demonstrates that PPEC services are in excess of Petitioner’s needs, and therefore, not medically necessary.

26. Upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned concludes that Respondent proved by a preponderance of the evidence that continuing PPEC services was not medically necessary for Petitioner. Looking at all the evidence relevant to the particular needs of Petitioner, Respondent has demonstrated that the PPEC services are not medically 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 PPEC services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s termination is **DENIED**.




DONE and ORDERED this 5th day of October, 2023 in Tallahassee, Leon County, Florida.

 Kimberly Roche
23-FH1145
2023.10.05
09:54:31 -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

ENCLOSURE:
Notice of Nondiscrimination Policy

COPIES FURNISHED TO (w/ enclosure):

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com

Notice of Nondiscrimination Policy

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Civil Rights Compliance Coordinator
2727 Mahan Drive, Mail Stop #3
Tallahassee, FL 32308
Voice: (850) 412-3661
TTY: (800) 955-8771



Spanish ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-(888) 419-3456 (TTY: 1-800-955-8771).

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Tagalog PAUNAWA: Kung nagsasalita ka ng Tagalog, maaari kang gumamit ng mga serbisyo ng tulong sa wika nang walang bayad. Tumawag sa 1-(888) 419-3456 (TTY: 1-800-955-8771).

Russian ВНИМАНИЕ: Если вы говорите на русском языке, то вам доступны бесплатные услуги перевода. Звоните 1-(888) 419-3456 (телетайп: 1-800-955-8771).

Arabic

ملحوظة: إذا كنت تتحدث العربية، فإن خدمات المساعدة اللغوية متاحة لك بالمجان. اتصل برقم 1-(888) 419-3456 (التحويلة: 1-800-955-8771)

Italian ATTENZIONE: In caso la lingua parlata sia l'italiano, sono disponibili servizi di assistenza linguistica gratuiti. Chiamare il numero 1-(888) 419-3456 (TTY: 1-800-955-8771).

German ACHTUNG: Wenn Sie Deutsch sprechen, stehen Ihnen kostenlos sprachliche Hilfsdienstleistungen zur Verfügung. Rufnummer: 1-(888) 419-3456 (TTY: 1-800-955-8771).

Korean 주의: 한국어를 사용하시는 경우, 언어 지원 서비스를 무료로 이용하실 수 있습니다. 1-(888) 419-3456 (TTY: 1-800-955-8771) 번으로 전화해 주십시오.

Polish UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Zadzwoń pod numer 1-(888) 419-3456 (TTY: 1-800-955-8771).

Gujarati નોંધ: જો તમે ગુજરાતી બોલતા હો, તો નિ:શુલ્ક ભાષા સહાય સેવાઓ તમારા માટે ઉપલબ્ધ છે. ફોન કરો 1-(888) 419-3456 (TTY: 1-800-955-8771).

Thai เรียน: ถ้าคุณ

บริการช่วยเหลือทางภาษาได้ฟรี โทร 1-(888) 419-3456 (TTY: 1-800-955-8771).