



FILED

Aug 09, 2023, 8:48 am
OFFICE OF FAIR HEARINGS

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

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH1197

vs.

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

RESPONDENT.

_____ /

FINAL ORDER

At all times relevant to this proceeding, Petitioner received Medicaid benefits on a fee-for-service basis. On May 19, 2023, Petitioner requested a Fair Hearing based on Respondent's termination of applied behavior analysis services.

Pursuant to notice mailed to the Petitioner's Authorized Representative's address of record on June 6, 2023, the undersigned Hearing Officer convened a telephonic hearing on July 20, 2023, at 1:00 p.m. Petitioner's Authorized Representative was not in attendance. After a fifteen-minute grace period, the undersigned took a roll call on the record of the persons in attendance and went off the record at 1:16 p.m.

Rule 59G-1.100(9)(b)(5)(b), Florida Administrative Code, authorizes a Hearing Officer to deny or dismiss a request for a Fair Hearing if the Recipient fails to appear at the scheduled Fair Hearing without good cause.

On July 21, 2023, the undersigned issued an Order to Show Cause (“Order”) why the instant case should not be dismissed for failure to appear at the scheduled Fair Hearing. The Order notified the Petitioner’s Authorized Representative that failure to show good cause on or before July 31, 2023, would result in dismissal of the case.


Rule 59G-1.00(2)(n) defines Good Cause as “[a]n incident or occurrence which is beyond the control of the movant and which prevents compliance.” Examples of good cause include a disabling accident, illness, or declared emergency; or other similar circumstances beyond the Recipient’s control. *See Fla. Admin. Rule 59G-1.100(14)(b)*. The record shows that the Order Consolidating & Scheduling Fair Hearing by Telephone and Prehearing Instructions (“Scheduling Order”), was issued June 6, 2023. Petitioner’s Authorized Representative’s explanation, is that she was “never called”. On page 2 of the Scheduling Order, the following instruction is given: “The parties must call the Hearing Officer at the number listed below on the date and at time of the hearing.” The Scheduling Order unambiguously provides that the parties are to call into the hearing. As such, Petitioner has failed to show good cause for [redacted] failure to appear at the hearing.

Based on the foregoing,

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Petitioner’s Fair Hearing request is hereby deemed abandoned, and this matter is now closed.

DONE AND ORDERED this 9th day of August, 2023 in Tallahassee, Leon County, Florida.

Joseph Mabry
 23-FH1197
2023.08.09
08:21:08 -04'00'

JOSEPH MABRY, 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]
[REDACTED]

**AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com**