



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

FILED

Sep 18, 2023, 9:32 am
OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1419

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on August 3, 2023, at 9:03 a.m. Eastern Standard Time (“EST”).

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner’s Authorized Representative

For the Respondent:

Marielisa Amador
Medical/Health Care Program Analyst
Agency for Health Care Administration

STATEMENT OF ISSUE

The first issue is whether Respondent proved by a preponderance of the evidence that Respondent’s decision to reduce Petitioner’s Behavior Analysis (“BA” or “ABA”) services was correct.

The second issue is whether Petitioner proved by a preponderance of the evidence that Respondent’s decision to deny Petitioner’s request for additional ABA services was incorrect.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. Petitioner's Authorized Representative and [REDACTED], [REDACTED] (" [REDACTED] ") appeared on behalf of Petitioner.

Marielisa Amador, Medical/Health Care Program Analyst for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared on behalf of Respondent. Dr. David Bicard ("Dr. Bicard"), Board Certified Behavior Analyst ("BCBA") at the doctoral level and Director of Clinical Operations for eQHealth Solutions Inc. ("eQHealth") appeared as a witness for Respondent.

Natalia, interpreter number 388579 of Language Line, appeared to offer translation services for the Petitioner.

Prior to the hearing, Petitioner sent to the Office of Fair Hearings and Respondent a nine (9) page evidence packet. The evidence packet appears in the Office of Fair Hearings' document management system as the file titles "23-FH1419 Supporting documents and DAR.pdf"¹ and "23-FH1419 Addtl Evidence.pdf"². Absent an objection from the Respondent, the undersigned admitted the nine (9)-page evidence packet 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 203-page evidence packet and a forty-nine (49)-page evidence packet. The 203-page packet appears in the Office of Fair Hearings' document management system as the file titles "[REDACTED] FH 08.03.2030 1 – 148.pdf" and "[REDACTED] FH 08.03.2030 149 – 203.pdf". The forty-nine (49)-page evidence packet appears in the Office of Fair Hearings document management system as the file title "23-FH1419 AHCA Evidence (Pages 1-49 of 49).pdf". The undersigned admitted the 203-page

¹ 23-FH1419 Supporting documents and DAR.pdf appears as pages 1 – 6 of PCE1.

² 23-FH1419 Addtl Evidence.pdf appears as pages 7 – 9 of PCE1.

evidence packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”) and the forty-nine (49)-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 page 2 of RCE 2.

2. Petitioner is [REDACTED]. See page 21 of RCE 1. Petitioner is diagnosed with the following: [REDACTED] and [REDACTED]. *Id.*

3. As provided in the Behavior Assessment and Treatment Plan (“treatment plan”), Petitioner is learning the following replacement skills: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. *Id.* at 162 – 186. As provided in the treatment plan, Petitioner is engaging in the following maladaptive behaviors: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. *Id.* at 187 – 195.

4. Petitioner requested continuation of BA services; specifically, 3,120 units of code 97153; 260 units of code 97155; and 52 units of code 97156. As testified to by Dr. Bicard, the request for 3,120 units of code 97153 is an increase from the 2,496 units that were approved in the prior authorization period. Thus, Petitioner requested an additional 624 units of code 97153. In a Notice of Outcome (“NOO”), dated May 9, 2023, Respondent terminated Petitioner’s ABA services. 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.

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

The NOO further provided:

PR Clinical Rationale – Denial: Provider was requested to submit modifications for lack of progress. The recipient has been in services with this provider since [REDACTED]. The recipient maladaptive behaviors have increased during the past authorization, and the provider did not submit modifications and only requested additional units to support in school without any updated treatment modifications. Additionally, the provider included minimal data for parent training sessions. According to the Florida Medicaid State Plan (Appendix 9.3.b), the data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan. The recommendations for procedural modifications include: additions/changes to treatment plan to impact behaviors targeted for reduction. Procedural modifications should include one or more of the following: antecedent manipulation modifications, modifications of prompting procedures used in acquisition, modifications in consequence-based strategies—ones that either reduce maladaptive behavior or reinforce replacement behavior (e.g., manipulation of reinforcement schedules, switch to a different decelerative procedure), or if lack of progress was due to therapist error (e.g., poor data collection or poor training on intervention methods), how you will address human error. The provider has not addressed the lack of progress during the last observation period and did not amend the treatment plan in relation to the lack of progress. The information submitted does not meet standards of care within the field of behavior analysis. This request is denied.

...

Pages 29 – 31 of RCE 1.

5. Petitioner's provider submitted the following as justification for the increase in units of code 97153:

Analyst is requesting more units for the next authorization period due to client maladaptive behaviors. Increasing trend on the following maladaptive behaviors have been observed: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. School director talked to parents about the needs of

having a RBT fulltime at school due to client continuously engaging in unwanted behaviors. Teacher reported that client require continuous assistance and redirection in class. Long-term engagement in these problem behaviors and deficiencies in school have led to isolation from others and limited relationships. Intervention in the school setting is crucial to function during school activities. This will provide foundational skills needed for cognitive and language skills development. In addition, intervention in school may reduce the need for specialized instructional support during [REDACTED] future school years.

...

Page 159 of RCE 1.

6. Petitioner's [REDACTED], [REDACTED] submitted a letter that stated as follows:

[Petitioner] is a patient of [REDACTED]. [REDACTED] has been diagnosed with [REDACTED]. We are requesting ABA therapy for a minimum of 35 hours, preferably a maximum of 40 hours weekly to help the patient improve in maladaptive behavior, communication, social relationships, play, self-care and even school or work later in life. Such studies have demonstrated that many children with [REDACTED] significant improvements in learning, reasoning, communication, and adaptability when they participate in high-quality ABA programs. ABA is deemed medically necessary for [Petitioner] under the treatment placed on my medical recommendations.

....

Page 7 of PCE.

7. Petitioner requested reconsideration of the Respondent's decision. In a Notice of Reconsideration Determination ("NRD"), dated June 14, 2023, Respondent partially reversed its decision. See pages 41 – 43 of RCE 1. Respondent approved 260 units of code 97155; 52 units of code 97156; and 2,080 units of code 97153. The NRD explained the basis for the decision 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.

...

PR Recon Determination: According to Behavior Analysis Services Coverage Policy requests for services must be based on the medical necessity of the recipient's maladaptive behaviors and skill deficits. The recipient is engaging in problem behaviors that threaten access to typical environments and negatively affects activities of daily living. However, the frequency, intensity, or severity of the recipient's maladaptive behaviors does not justify the requested units of services. The requested units of BA services are in excess of medical necessity.

...

Pages 41 – 42 of RCE 1.

8. On June 13, 2023, Petitioner requested a Fair Hearing to challenge the reduction of ABA services. On July 11, 2023, the undersigned issued an Order Scheduling Fair Hearing and Prehearing Instructions, setting the hearing for August 3, 2023, at 9:00 a.m. EST.

9. Dr. Bicard is a Board Certified Behavior Analyst at the doctoral level. Dr. Bicard testified to the following:

- a. In this case, the provider has requested more services than they ever have in the [REDACTED] that they have provided services to Petitioner.
- b. Initially, services were denied in total, because of a lack of data on the Petitioner's progress during the prior authorization period. At reconsideration the provider submitted documentation explaining there were issues with missed sessions from the Registered Behavior Technician ("RBT"). Even with the missed sessions and limited data – the information submitted from the provider showed that the Petitioner had made progress on goals.
- c. It appears that the provider is requesting additional services on the school's request – not because it is medically necessary.

- d. All services should be for the amelioration of maladaptive behaviors and not for the convenience of the school. Dr. Bicard believes that Petitioner has been approved for sufficient home and school therapy.
 - e. That graphs of the replacement behaviors show that Petitioner can successfully engage in [redacted] replacement behaviors. See pages 162 – 186.
 - f. Regarding the graphs of the maladaptive behaviors, all of the graphs appear to be variable, but the severity and frequency are decreasing.
 - g. As such, it was determined that the requested units were in excess of medical necessity
10. [redacted] is Petitioner's [redacted]. [redacted] testified to the following:
- a. Petitioner's school will not allow [redacted] to attend without an ABA therapist.
 - b. Petitioner invades other children's personal space.
 - c. [redacted] is happy with the ABA provider.
 - d. [redacted] believes Petitioner performs better in school when the therapist is present.

CONCLUSIONS OF LAW

11. 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).

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

13. Because Respondent reduced a previously approved service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the Respondent regarding the reduction of ABA services. 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.)

14. Because Petitioner is requesting additional services, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the Petitioner regarding the request for additional ABA services. 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 Florida Medicaid Behavior Analysis Services Coverage Policy (October 2017) (“BA Policy”), incorporated by reference in Fla. Admin. Code. R. 59G-4.125, governs BA services available under Florida Medicaid. The BA Policy provides as follows:

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 service
- 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 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.

...

Pages 1 – 3 of BA Policy.

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

These Review Criteria state as follows:

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)
 - ...
- 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.

3. Criteria for Continuation of Treatment at the Present Level and/or Using Current Methods: Providers must ensure that ALL of the following criteria are met to request continuation of treatments at the present level or using the current methods. If criteria for 3a is met, but criteria for 3b and/or 3c are not met, then a reduction of the treatment level and/or change of treatment methods may be warranted.

- a. ALL criteria listed in 2a, 2b, and 2c regarding critical elements, assessment or reassessment, and behavior plan, are met.
- b. The data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan.
- c. The level of functional impairment justifies continuation of BA services. 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

...

Pages 6 – 8 of BA Policy.

- 17. 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.

18. Petitioner is under age 21, and therefore EPSDT applies to the 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.

19. The 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.

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

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 error 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.

...

Page 3 of Authorization Policy.

A. Reduction of ABA Services

21. In the instant case, Respondent reduced Petitioner’s ABA services. See ¶ 7. In the NRD dated June 14, 2023, Respondent explained that continuing services at the prior level was not medically necessary, specifically, that it did not meet the requirements that 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”. *Id.* Respondent further explained that “the recipient is engaging in problem behaviors . . . [h]owever, the frequency, intensity, or severity of the recipient’s maladaptive behaviors does not justify the requested units of service.” *Id.*

22. As provided by the EPSDT requirements, the recipient must meet the medical necessity criteria as outlined in Fla. Admin. Code R. 59G-1.010. As provided in section 2.83 of the Definitions

Policy, two components of medical necessity are that 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.” As testified to by Dr. Bicard and shown by the treatment plan, Petitioner can successfully engage in [REDACTED] replacement behaviors. See ¶ 10. Moreover, the treatment plan shows that severity and intensity of the maladaptive behaviors has decreased. Based on that, Dr. Bicard determined that the units approved in the prior authorization period were in excess of Petitioner’s needs. As Dr. Bicard is a BCBA at the doctoral level, [REDACTED] opinion is credible.

23. As QIO for the Agency, eQHealth is authorized to reduce services when “the reviewing physician determines the recipient will not gain any additional benefit by continuing services at the current level.” See ¶ 19. As discussed, *supra* ¶ 21, based on the data in the treatment plan, and the credible opinion of Dr. Bicard, continuation of services at the prior level was not medically necessary.

24. Upon consideration of the testimony provided, evidence submitted, and applicable polices, the undersigned concludes that Respondent proved by a preponderance of the evidence that the reduction of ABA services was necessary. Looking at all the evidence relevant to the particular needs of Petitioner, Respondent has demonstrated that the previously authorized services with this provider, based on the treatment plan at issue in this case, 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 reduction of ABA services was correct.

B. Denial of ABA Services

25. Petitioner requested an additional 624 units of code 97153. See ¶ 4. Respondent denied Petitioner's request. See ¶¶ 4, 7. Respondent stated that additional units were not medically necessary, specifically that they 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". *Id.*

26. As provided by the EPSDT requirements, the recipient must meet the medical necessity criteria as outlined in Fla. Admin. Code R. 59G-1.010. As provided in section 2.83 of the Definitions Policy, a component of medical necessity is that 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." As explained by the Petitioner's provider, the request for increase in services is due in part to the request of Petitioner's school to have a Registered Behavior Technician in school full time with the Petitioner. See ¶ 5. As explained by Dr. Bicard, services are for the amelioration of maladaptive behaviors, and not for the convenience of the school. See ¶ 9. Moreover, Dr. Bicard provided credible testimony that the amount of services that have been approved is sufficient. *Id.* As such, Petitioner did not demonstrate that the requested services were not in excess of Petitioner's needs.

27. Petitioner's [REDACTED], [REDACTED], recommended thirty-five (35) hours of ABA services. See ¶ 6. However, the fact that a provider prescribed, recommended, or approved medical or allied care, goods, or services does not, itself, make such care, goods, or services medically necessary or a medical necessity or a covered service. See *supra* ¶ 19.

28. Upon consideration of the testimony provided, evidence submitted, and applicable polices, the undersigned concludes that Petitioner did not prove by a preponderance of the


evidence that the additional units of ABA services were necessary. Looking at all the evidence relevant to the particular needs of Petitioner, Petitioner has not demonstrated that the requested services are necessary to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, Petitioner did not prove by a preponderance of the evidence that Respondent's denial of ABA services was incorrect.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Respondent's reduction of ABA services is **AFFIRMED**. Petitioner's appeal based on Respondent's reduction is **DENIED**.

Respondent's denial of ABA services is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

DONE and **ORDERED** this 18th day of September 2023, in Tallahassee, Leon County, Florida.

 Joseph Mabry
23-FH1419
2023.09.18
07:46:42 -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