



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

FILED

Nov 08, 2023, 10:56 am

OFFICE OF FAIR HEARINGS

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH1484

Plan ID No.: [Redacted]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

AMENDED FINAL ORDER¹

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on August 8, 2023, at 10:02 a.m. Eastern Standard Time (“EST”).

APPEARANCES

For the Petitioner:

[Redacted]

Petitioner’s Authorized Representative

For the Respondent:

Chantal Pierre
Clinical Appeals Coordinator
Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The issue is whether Petitioner proved by a preponderance of the evidence that Respondent’s denial of Petitioner’s request for additional personal care services was incorrect.

PRELIMINARY STATEMENT

¹ Amended to add a Notice of a Right to Judicial Review statement on the last page of the order.

All parties appeared telephonically. Petitioner’s Authorized Representative and [REDACTED], [REDACTED] appeared on behalf of Petitioner. Petitioner appeared as [REDACTED] own witness.

Chantal Pierre ("Ms. Pierre"), Clinical Appeals Coordinator for Sunshine State Health Plan, Inc. ("Sunshine") appeared on behalf of Respondent. Bonnie Koreff-Wolf, M.D. ("Dr. Koreff-Wolf"), Medical Director for Sunshine, appeared as a witness for Respondent. Kaci Narine, Utilization Management for Sunshine, appeared as a witness for Respondent. Lauren Greenwald, Utilization Management for Sunshine, appeared as a witness for Respondent. Georgina Rivera, Long-term Care Coordinator for Sunshine, appeared as a witness for Respondent. Teresa Bonfante, Case Management Supervisor for Sunshine, appeared as a witness for Respondent.

Stephanie Lang, Program Operations Administrator for the Agency for Health Care Administration ("Agency" or "AHCA").

Petitioner did not introduce any exhibits at the hearing.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred and nineteen (119)-page evidence packet. The one hundred and nineteen (119)-page packet appears in the Office of Fair Hearings’ document management system as file titles “MFH Packet [Petitioner].pdf”. Absent an objection from the Petitioner, the undersigned admitted the one hundred and nineteen (119)-page packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine’s Long-term Care (“LTC”) program. See RCE 1 at 1, 99. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is [REDACTED]. *Id.* at 13. Petitioner lives with [REDACTED] [REDACTED] *Id.* at 15. Petitioner is diagnosed with [REDACTED] [REDACTED] [REDACTED]. *Id.* at 44, 48 – 49, 50. Petitioner has a history of [REDACTED] [REDACTED]. *Id.* at 48. Petitioner has significantly reduced [REDACTED] [REDACTED] *Id.* at 44. Petitioner does not speak English and cannot [REDACTED]. *Id.* at 13, 44. Petitioner has [REDACTED]. *Id.* at 45. Petitioner wears a [REDACTED] [REDACTED] *Id.* Petitioner has [REDACTED]. *Id.* at 46. Petitioner cannot [REDACTED]. *Id.* at 45, 47.

3. As provided in the Florida Department of Elder Affairs: 701B Comprehensive Assessment (“701B”), dated April 28, 2023, Petitioner’s needs for activities of daily living (“ADLs”) are as follows: [REDACTED], Petitioner needs total assistance (cannot do at all); for using the [REDACTED] Petitioner needs assistance (but not total help); for [REDACTED] Petitioner needs supervision or prompting *Id.* at 46. In regard to [REDACTED] instrumental activities of daily living (“IADLs”), Petitioner needs total assistance (cannot do at all) for [REDACTED]. *Id.* at 47. Petitioner has had [REDACTED] [REDACTED]. *Id.* at 46. Petitioner’s behaviors, such as [REDACTED] [REDACTED]. *Id.* at 51.

4. [REDACTED] and primary caregiver. *Id.* at 57 – 58. [REDACTED] does not currently have anyone to assist with providing care to Petitioner. *Id.* [REDACTED] aspires to become a registered nurse and return to work. *Id.*

5. Petitioner requested sixty (60) additional personal care services. Respondent issued a Notice of Adverse Benefit Determination (“NABD”), dated April 28, 2023, approving sixteen (16) hours of personal care services and denying the remaining forty-four (44) hours. The NABD explained the basis of the denial as follows:

We determined that your requested services are **not medically necessary** because the services do not meet the reason(s) checked below: *(See Rule)*

...

- Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all other home and community-based services:
 1. 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;
 2. 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; and
 3. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider;

and one of the following:

1. Enable the enrollee to maintain or regain functional capacity; or
2. Enable an enrollee receiving long-term services and supports to have access to the benefits of community living, to achieve person-centered goals, and live and work in the setting of their choice.

The facts that we used to make our decision are: The request for an extra 60 hours per week of Personal Care Services is partially approved. The member's present care plan includes 6 hours per week of Personal Care Services and 4 hours per week of Homemaker Services. Based on the assessment of the member’s care needs and household and caregiver status, Sunshine Health will approve an extra 16 hours per week of Personal Care Services and will deny the remaining requested 44 hours per week of Personal Care Services. The updated care plan approved by Sunshine Health will include 22 hours per week of Personal Care

Services and 4 hours per week of Homemaker Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

...

Id. at 4 – 5.

6. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”) dated June 7, 2023, upholding the denial of the additional 44 hours of personal care services. The NPAR explained as follows:

...

The reason for our decision was the request for 44 hours per week of Personal Care Services is denied as not medically needed. The prior decision is upheld. The approved care plan approved by Sunshine Health will include: 22 hours per week of Personal Care Services and 4 hours per week of Homemaker Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria. This decision was made by a Medical Director Board Certified in Internal Medicine.

...

Id. at 78.

7. On June 16, 2023, Petitioner requested a Fair Hearing to challenge the denial of personal care services. On July 18, 2023, the undersigned issued an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions, setting the hearing for August 8, 2023, at 10:00 a.m. Eastern Standard Time.

8. As testified by Ms. Pierre at Fair Hearing, Petitioner is currently approved to receive thirty-six (36) hours of personal care services and four (4) hours of homemaker services, weekly. *Id.* at 98.

9. [REDACTED] is Petitioner’s [REDACTED] testified to the following:

a. [REDACTED] believes Petitioner’s disabilities were caused from the Chernobyl event leading to her gene issues in addition to [REDACTED] other medical conditions. *Id.* at

44. Petitioner takes the medication [REDACTED].
[REDACTED]. *Id.* at 62, 64 – 67.

- b. [REDACTED] believes Petitioner needs to be supervised 24-hours a day. [REDACTED]. [REDACTED] explains that Petitioner behaves like a 6-year-old which can be inappropriate and dangerous for [REDACTED] life. As an example, [REDACTED] states Petitioner believes [REDACTED] can fly and swim although [REDACTED] cannot. A few times, Petitioner went out to the neighbors' home on [REDACTED] own leading to their complaint. [REDACTED] believes the approved hours are not enough to cover Petitioner's safety and maintain a normal life.
- c. [REDACTED] is currently preparing to take the nursing exam. [REDACTED] asserts that classroom learning and studying take up to 9 hours per day.

10. Dr. Koreff-Wolf is a Medical Director for Sunshine. Dr. Koreff-Wolf testified to the following:

- a. In Florida, long-term care services are divided based on type of care. The LTC Policy and Sunshine's service criteria are used to determine the hours that are medically necessary, which are always subject to change based on multiple factors. *See* ¶ 15 and RCE 1 at 99 – 118.
- b. In their decision, Sunshine considered Petitioner's move [REDACTED] [REDACTED] medical history, assistive devices due to [REDACTED] [REDACTED], living situation with [REDACTED], and [REDACTED] needs with ADLs and IADLs. *See* ¶ 2, 3. Petitioner gets lost in [REDACTED] home and [REDACTED] *Id.*

- c. Dr. Koreff-Wolf explains that Sunshine provides services secondary to the extent Petitioner’s natural support can assist. It is expected for Petitioner’s mother, as a natural support, to assist Petitioner primarily. The administration of medication is outside the scope of personal care duties.
- d. In preparation for the Fair Hearing, Dr. Koreff-Wolf contends Sunshine took additional consideration of the notes from Petitioner’s psychiatrist, Alexander Grinberg, M.D., along with [REDACTED] aspiration to work as a nurse. *Id.* at 57, 60 – 70. Sunshine thereafter approved Petitioner for an additional fourteen (14) hours of personal care services, for a total of forty (40) home health hours, and maintains these hours should be sufficient to take care of the member’s needs.
- e. Opportunities of relief for a caretaker is provided under respite care services.

11. The Sunshine Health Long Term Care Ancillary Service Criteria (May 2014) (“FL.LT.UM.09”) provides as follows in regard to personal care services:

PURPOSE:

To establish clinical criteria on which to review Sunshine Health Long Term Care (LTC) line of business ancillary services for members residing in a home and community based environment. The goal of the ancillary services is to provide these supportive services in the home to address the member’s cognitive and functional deficits, which may be a result of their medical conditions. The services will assist in maintaining the members in their home and community environment, in a safe manner, to avoid the risk for nursing home placement.

...

6. Personal Care Services

In accordance with Rule 59G-4.215, F.A.C., for member under the age of 21 years. To provide assistance with ADLs and IADLs, including assistance with preparation of meals, and housekeeping chores which are incidental to the care furnished or are essential to the health and welfare of the member. The scope and nature of these services do not otherwise differ from personal care services furnished to persons under the age of 21 years. A service that provides assistance with eating, bathing, dressing and personal hygiene, and other activities of daily living. The service includes assistance with preparation of meals, but does not include the

cost of meals. The service may also include housekeeping tasks such as bed making, dusting and vacuuming, which are incidental to the care furnished or are essential to the health and welfare of the member. Personal care services include but may not be limited to the following:

- a. Assistance to the member to complete personal hygiene (bathing, grooming, mouth care, etc.)
- b. Assistance with bladder and bowel requirements that include assisting the member to and from the bathroom or with bedpan routines
- c. Assisting the member in following through with physician orders
The Personal Care Provider cannot administer any medications, but may bring medications to the member and remind the member to take the medicine at specific times
- d. Assisting with food, nutrition, and diet activities, including preparing meals, when required and other incidental services, (i.e. housekeeping chores) essential to the health and welfare of the member
- e. Performing household services (changing bed linen or arranging furniture), when such services are essential to the member's health and comfort.

...

8. Respite Care

The provision of services on a short-term basis due to the absence of, or need to relieve, the member's natural supports on a planned or an emergency basis.

In-home Respite Care services preserve the primary caregiving relationship. The service provides general supervision, meal preparation, and hands-on assistance with personal care that are incidental to supervision during the period of service delivery.

Approval Criteria

In-Home Respite Services, are provided for a member's natural supports which may include a primary caregiver.

a) A primary caregiver is defined as any person who lives with the member and regularly provides or arranges help as needed with Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs). This person may or may not be related by birth or marriage.

Dimensions of Determination (Refer to section 2.1 for details)

1. Level of functioning for safety reasons
2. Caregiver Stress – defined by responses for caregiver assessment questions on the 701B
 - Minimal Stress
 - Moderate Stress
 - Major Stress
 - Sudden Absence

- a. Defined by documented absence of caregiver due to medical emergency
- 3. Informal Supports
- 4. Living Situation
- 5. Need for Supervision

...

See RCE 1 at 99, 109 – 114.

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 Fla. Stat. § 409.285(2)(2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

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

14. Because Petitioner is requesting additional services, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to Petitioner. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by “the greater weight of the evidence” (Black’s Law Dictionary at 1201, 7th Ed.)

15. The Florida Medicaid Statewide Managed Care Long-term Care Program Coverage Policy (March 2017) (“LTC Policy”), incorporated by reference in Fla. Admin. Code R. 59G-4.192, governs Long-Term Care services available under Florida Medicaid. The LTC Policy provides the following with respect to personal care services:

1.1 Description and Program Goal

Under the Statewide Medicaid Managed Care Long-Term Care (LTC) program, managed care plans (LTC plans) are required to provide an array of home and community-based services that enable enrollees to live in the community and to avoid institutionalization.

...

1.3.1 Activities of Daily Living (ADLs)

ADLs include:

- Bathing
- Dressing
- Eating (oral feedings and fluid intake)
- Maintaining continence (examples include taking care of a catheter or colostomy bag or changing a disposable incontinence product when the recipient is unable to control bowel or bladder functions)
- Toileting
- Transferring

...

1.3.9 Instrumental Activities of Daily Living (IADLs)

When necessary for the recipient to function independently, including:

- Grocery shopping
- Laundry
- Light housework
- Meal preparation
- Money Management
- Personal hygiene
- Transportation
- Using the telephone to take care of essential tasks (examples include paying bills and setting up medical appointments)

...

4.1 General Criteria

Florida Medicaid LTC plans cover services that meet all of the following:

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

4.2 Specific Criteria

Florida Medicaid LTC plans cover services that meet all of the following:

- Consistent with the type, amount, duration, frequency, and scope of services specified in an enrollee's authorized plan of care
- Provided in accordance with a goal in the enrollee's plan of care
- Intended to enable the enrollee to reside in the most appropriate and least.

...

...

4.2.2.6 Personal Care

In accordance with Rule 59G-4.215, F.A.C., for enrollees under the age of 21 years. To provide assistance with ADLs and IADLs, including assistance with preparation of meals, and housekeeping chores which are incidental to the care furnished or are essential to the health and welfare of the enrollee. The scope and nature of these services do not otherwise differ from personal care services furnished to persons under the age of 21 years.

...

6.0 Documentation

...

6.2 Specific Criteria

In order to receive LTC services, services must be documented on an individualized plan of care based upon a comprehensive needs assessment. The comprehensive assessment includes the completion of the 701-B Comprehensive Assessment and the LTC Supplemental Assessment.

LTC Policy at pages 1-10.

16. The LTC Policy also addresses medical necessity:

1.3.14 Medically Necessary or Medical Necessity

For the purposes of this policy, the service must meet either of the following criteria:

(a) Nursing facility services and mixed services must meet the medical necessity criteria defined in Rule 59G-1.010, F.A.C.

(b) All other LTC supportive services must meet all of the following:

- 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 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

And, one of the following:

- Enable the enrollee to maintain or regain functional capacity; or
- Enable the enrollee to have access to the benefits of community living, to achieve person-centered goals, and to live and work in the setting of his or her choice.

LTC Policy at pages 2-3.

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.

Definitions Policy at page 7.

18. The Florida Medicaid Personal Care Services Coverage Policy (November 2016) ("Personal Care Policy"), incorporated by reference in Fla. Admin. Code R. 59G-4.215, governs personal care services available under Florida Medicaid. The Personal Care Policy provides the following with respect to personal care services:

4.2 Specific Criteria

Florida Medicaid reimburses for up to 24 hours of personal care services per day, per recipient, in order to provide assistance with ADLs and age appropriate IADLs when the recipient meets the following criteria:

- Has a medical condition or disability that substantially limits their ability to perform ADLs or IADLs and do not have a parent or legal guardian able to provide the required care
- Is under the care of a physician and has a physician's order for personal care services
- Requires more extensive and continual care than can be provided through a home health visit
- Requires services that can be safely provided in their home or the community

...

5.2 Specific Non-Covered Criteria

Florida Medicaid does not reimburse for the following:

- A skill level other than what is prescribed in the physician order and approved plan of care (POC)
- Assistance with homework
- Babysitting
- Care, grooming, or feeding of pets and animals
- Certification of the POC by a physician
- Companion sitting or leisure activities
- Escort services
- Housekeeping (except light housekeeping to make the environment safe), homemaker, and chore services
- Nursing assessments related to the POC
- Professional development training or supervision of home health staff or other home health personnel
- Respite care to facilitate the parent or legal guardian attending to personal matters
- Services funded under section 110 of the Rehabilitation Act of 1973 or under the provisions of the Individuals with Disabilities Educational Act
- Services furnished by relatives as defined in section 429.02(18), F.S., household members, or any person with custodial or legal responsibility for the recipient. (Except when a recipient is enrolled in the Consumer-Directed Care Plus program)
- Services provided in any of the following locations:
 - Hospitals
 - Intermediate care facility for individuals with intellectual disabilities
 - Nursing facilities
 - Prescribed pediatric extended care centers
 - Residential facilities or assisted living facilities when the services duplicate those provided by the facility
- Services rendered prior to the development and approval of the POC
- Travel time to or from the recipient's place of residence
- Yard work, gardening, or home maintenance work

Personal Care Policy at pages 3-4.

19. Petitioner requested sixty (60) additional hours of personal care services. See ¶ 5. In the NABD, dated April 28, 2023, Respondent approved sixteen (16) hours of personal care services and denied the remaining forty-four (44) hours. See ¶ 5. Respondent cited to the medical

necessity as the basis for their decision. However, Respondent did not specify which prong of medical necessity it used to make its decision. See ¶ 5. Subsequent to the NPAR and prior to the Fair Hearing, Respondent approved Petitioner for thirty (30) of the requested sixty (60) personal care hours. See ¶ 8, 10. Petitioner has burden of proof to show by a preponderance of evidence that the Respondent's determination was incorrect. See ¶ 14.

20. Petitioner currently has thirty-six (36) hours of personal care services and four (4) hours of homemaker services, weekly. See ¶ 8. According to the LTC Policy, personal care services are used to provide medically necessary assistance with ADLs and IADLs, including [REDACTED] [REDACTED] which are essential to the health and welfare of the enrollee. See ¶ 15.

21. In the instant case, the record is very clear that Petitioner suffers from multiple medical conditions and requires support with these problems. See ¶¶ 2, 9. Petitioner is diagnosed with [REDACTED] [REDACTED] See ¶ 2. Moreover, Petitioner has a history of [REDACTED]. See ¶ 2. Petitioner wears a [REDACTED] [REDACTED] See ¶ 2. As testified by [REDACTED], Petitioner takes the medication [REDACTED] otherwise [REDACTED] exhibits aggressive behaviors. See ¶ 9. As provided in the 701B dated April 28, 2023, Petitioner's needs for ADLs are as follows: for bathing and dressing, Petitioner needs total assistance (cannot do at all); [REDACTED] [REDACTED], Petitioner needs assistance (but not total help); for [REDACTED] Petitioner needs supervision or prompting. See ¶ 3. In regard to [REDACTED] IADLs, Petitioner needs total assistance (cannot do at all) for [REDACTED]. See ¶ 3.

22. [REDACTED] argued that [REDACTED] believes Petitioner needs 24-hour supervision because Petitioner exhibits behaviors or ideations which can be inappropriate and dangerous for [REDACTED] life. See ¶ 9. For example, Petitioner behaves like a 6-year-old or Petitioner believes [REDACTED] can fly and swim although she cannot. See ¶ 9. According to the 701B, although Petitioner is [REDACTED], Petitioner has demonstrated a [REDACTED]. See ¶ 3, 9. [REDACTED] further testified that [REDACTED] is studying to become a registered nurse and often requires up to nine hours a day for exam preparation. See ¶ 9. [REDACTED] argued that the currently approved service hours are insufficient to allow Petitioner a normal life based on these safety concerns and [REDACTED] time limitations due to school. See ¶ 9. According to Dr. Koreff-Wolf, Respondent took into consideration Petitioner’s medical history, assistive devices due to [REDACTED]. See ¶ 10.

23. The record indicates that personal care services are for hands-on support with ADLs. See ¶ 11, 15. Sunshine’s FL.LT.UM.09 mirrors the LTC Policy maintaining that personal care services “...provide assistance with ADLs and IADLs, including assistance with preparation of meals, and housekeeping chores which are incidental to the care furnished or are essential to the health and welfare of the member.” See ¶ 11. Here, it appears from the record Petitioner’s unmet needs more closely aligns with a need for supervision in [REDACTED] absence, rather than for continual, hands-on support with ADLs and IADLs. See ¶ 3, 9, 10. [REDACTED] raised concerns with purported lack of supervision and socialization. See ¶ 21 – 22. Petitioner did not introduce evidence to demonstrate how the currently approved hours do not already satisfy the safety concerns presented. Petitioner did not also introduce any evidence of how the additional thirty

(30) hours would be utilized to provide medically necessary assistance with Petitioner's needs with ADLs and IADLs if approved. According to the Personal Care Policy, Florida Medicaid does not specifically cover supervision or companion activities performed under personal care services. See ¶ 18. Personal care services are for hands-on care with ADLs provided in the home, and not intended to provide escort service to appointments, or for socialization or supervision. See ¶ 18.

24. While the undersigned finds [REDACTED] career pursuit commendable, the record does not reflect this to be a permanent circumstance, nor criteria to warrant additional personal care services. In fact, section 1.3.14 of the LTC Policy maintains that medically necessary services should not be "primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider." See ¶ 16. Dr. Koreff-Wolf contended that Respondent took additional consideration of the notes from Petitioner's psychiatrist, Alexander Grinberg, M.D., along with [REDACTED] educational obligations to approve Petitioner for an additional fourteen (14) hours of personal care services, for a total of forty (40) home health hours. See ¶ 10. Further, Dr. Koreff-Wolf established that it is expected for Petitioner's mother as a natural support to assist Petitioner, whereas personal care services are used as a secondary provision. See ¶ 10. The undersigned finds that appropriate relief for a caretaker or coverage for momentary time limitations may be better addressed under different services. All in all, Petitioner did not establish that the additional thirty (30) hours of personal care services are medically necessary. As such, the undersigned finds that Petitioner has not met her burden.


25. Upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Petitioner did not prove by a preponderance of the evidence

that Respondent's denial of Petitioner's request for additional personal care hours was incorrect. In light of all the evidence relevant to the particular needs of Petitioner, Petitioner has not shown that the requested services are not in excess of the Petitioner's needs. Accordingly, the undersigned finds that Petitioner has not proven by a preponderance of the evidence that Respondent's denial of additional thirty (30) hours of personal care services was incorrect.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Respondent's denial of additional personal care services is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

DONE and ORDERED this 8th day of November, 2023 in Tallahassee, Leon County, Florida.


Kimberly Roche
23-FH1484
2023.11.08
08:29:02 -05'00'

KIMBERLY ROCHE, 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.

ENCLOSURE:
Notice of Nondiscrimination Policy

COPIES FURNISHED TO (w/ enclosure):

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**Sunshine State Health Plan, Inc.
SunshineHealth_MFH@centene.com**

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

Notice of Nondiscrimination Policy

The Agency for Health Care Administration (“AHCA”) is committed to providing all people with an equal opportunity to participate in its programs, services, and activities. AHCA complies with applicable Federal civil rights laws and does not exclude people or treat them differently in admission to, access to, or employment in its programs, services, or activities on the basis of race, color, national origin, age, disability, or sex. Communication aids and services, such as: qualified sign language interpreters, qualified foreign language interpreters, and written information in alternative formats (i.e.: Braille, large print, foreign language, etc.) are provided free of charge, in accordance with federal law, when necessary to ensure equal opportunity and effective communication.

This Notice is provided as required by Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act and implementing regulations. This Notice is available, upon request, in alternative formats. Individuals who require free communication aids and services to effectively participate in AHCA’s programs, services, and activities are invited to make their requests to the Civil Rights Compliance Coordinator at the contact information listed below. If you believe that AHCA has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex you can file a grievance in person, by mail, or by telephone with:

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).

French Creole Atansyon: Si w pale Kreyòl Ayisyen, gen sèvis èd pou lang ki disponib gratis pou ou. Rele 1-(888) 419-3456 (TTY: 1-800-955-8771).

Vietnamese CHÚ Ý: Nếu bạn nói Tiếng Việt, có các dịch vụ hỗ trợ ngôn ngữ miễn phí dành cho bạn. Gọi số 1-(888) 419-3456 (TTY: 1-800-955-8771).

Portuguese ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis. Ligue para 1-(888) 419-3456 (TTY: 1-800-955-8771).

Chinese 注意 : 如果您使用繁體中文, 您可以免費獲得語言援助服務。請致電 1-(888) 419-3456 (TTY: 1-800-955-8771)

French ATTENTION: Si vous parlez français, des services d'aide linguistique vous sont proposés gratuitement. Appelez le 1-(888) 419-3456 (ATS: 1-800-955-8771).

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).