



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

FILED

Aug 29, 2023, 9:05 am
OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1692

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

_____ /

FINAL ORDER OF DISMISSAL

The Office of Fair Hearings received a request for a Fair Hearing from Petitioner on July 11, 2023. Rule 59G-1.100(8)(c), Florida Administrative Code, requires that “a Fair Hearing request must be made within 90 days of the date of the required time to provide a NOA [Notice of Action], or such other time specified by law.” Rule 59G-1.100(9)(b)(3), Florida Administrative Code, authorizes a Hearing Officer to deny or dismiss a Fair Hearing request that is untimely.

In the instant case, the Notice of Action (here titled Notice of Reconsideration Determination) is dated March 8, 2023. Petitioner requested a Fair Hearing on July 11, 2023, which is more than 90 days from March 8, 2023. Therefore, it appears that the request is untimely.

On August 10, 2023, the undersigned issued an Order to Show Cause (“Order”) why the Fair Hearing request should not be dismissed for failure to timely file the request. The Order explained that Rule 59G-1.100(b)(g), Florida Administrative Code, requires that “[a] fair hearing request by an enrollee must be received by the Agency within 120 days of the date the required

NPAR is sent to the enrollee.” The Order notified Petitioner that failure to show cause by August 21, 2023, would result in dismissal of the case. On August 21, 2023, Petitioner sent a response that stated as follows:

This shall serve as a response to the letter your office sent me asking to show cause to continue with the process of the fair hearing for my [REDACTED] case . We have been calling and trying to get help from the office of fair hearing since the beginning of this nightmare without luck (Don't get me wrong I have been able to talk to a lady every time I called but she didn't provide any information that can help me It seen that she has very limited information about the case she can tell me that the case is being denied but she can't say what is exactly your office need me to do so you don't denied the case) . With my little understanding about the fair hearing process and without any help from your office plus the fact that I have to work 9:00 AM to 5 Pm Monday through Friday . I did the fair hearing request as soon it was possible to me, I'm asking for a bit of empathy and understanding on what the situation is here I'm a special needs kid [REDACTED] is not ease for me to catch up with your times and regulations Please see attached the document where we detail all communication that we had until now with your office.


Attached to Petitioner’s response was a timeline of events from Petitioner’s Board Certified Behavior Analyst. As provided in the timeline, Petitioner has had two (2) opportunities for a Fair Hearing, but each time the case was dismissed for failure to respond to the subsequent Order to Show Cause. As Petitioner has had multiple opportunities for a Fair Hearing, Petitioner has not shown good cause to proceed with this hearing.

Based on the foregoing,

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

This case is dismissed without prejudice and is now closed.

DONE AND ORDERED this 29th day of August, 2023 in Tallahassee, Leon County, Florida.


Joseph Mabry
23-FH1692
2023.08.29
07:42:53 -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]

**AHCA Medicaid Hearing Unit
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