



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

**FILED**

Nov 15, 2023, 1:19 pm

OFFICE OF FAIR HEARINGS

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH1873

Plan ID No.: [Redacted]

vs.

MOLINA HEALTH CARE OF FLORIDA, INC.,

RESPONDENT.

\_\_\_\_\_ /

[Redacted]

PETITIONER,

AHCA Case No.: 23-FH1874

Plan ID No.: [Redacted]

vs.

MOLINA HEALTH CARE OF FLORIDA, INC.,

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on September 27, 2023, at 9:00 a.m. Eastern Standard Time.

**APPEARANCES**

For the Petitioner:

[Redacted]

Petitioner's Authorized Representative

For the Respondent:

Katia Matos  
Utilization Management Director  
Molina Health Care of Florida, Inc.

### **STATEMENT OF ISSUE**

The first issue is whether Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's personal care services was correct.

The second issue is whether Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's homemaker services was correct.

### **PRELIMINARY STATEMENT**

All parties appeared telephonically. Petitioner's Authorized Representative, [REDACTED]

[REDACTED]

Katia Matos, Utilization Management Director for Molina Health Care of Florida, Inc. ("Molina" or "Respondent") appeared on behalf of Respondent. The following persons attended as witnesses for Molina: Dr. Gabriel Novoa ("Dr. Novoa"), Medical Director; Marianna Nunez, Lead Appeals and Grievances; Yuneisy Cruz, Director of Long Term Care Department; Caridad Bello, Grievances and Appeals; Yani Veliz, Director of Appeals and Grievances; and Sandy Chiquet, Long Term Care Program Supervisor.

Doris Rivera, Medical/Health Care Program Analysts for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared as an observer.

Certified Interpreter, Joan, identification number ED440, provided interpretation services at the hearing.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a ninety-one (91)-page evidence packet. The evidence packet appears in the Office of Fair Hearings' document management system as file title "MFH Package Office Packet [Petitioner's

name].pdf.” Absent an objection from the Petitioner, the undersigned admitted the ninety-one (91)-page packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

Prior to the hearing, Petitioner sent to the Office of Fair Hearings and Respondent a three (3)-page evidence packet. The evidence packet appears in the Office of Fair Hearings’ document management system as file title “2023-0731-0102-FAX.pdf.” Absent an objection from the Respondent, the undersigned admitted the three (3)-page packet into evidence as Petitioner’s Composite Exhibit 1 (“PCE 1”).

**FINDINGS OF FACT**

1. Petitioner is an enrolled member of Molina. See page 1 of RCE 1. Molina is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is [REDACTED]. *Id.* at 46. Petitioner lives with [REDACTED]. *Id.* at 76; see infra ¶ 12. Petitioner’s primary caregiver is [REDACTED]. *Id.* at 78.

3. Petitioner is diagnosed with the following: [REDACTED]  
[REDACTED]. *Id.* at 51 - 52.  
In the past, Petitioner has had [REDACTED] *Id.* at 52.

4. As provided in the Florida Department of Elder Affairs: 701B Comprehensive Assessment, dated April 17, 2023, (“701B”), Petitioner’s needs for activities of daily living (“ADLs”) are as follows: for [REDACTED]  
[REDACTED], Petitioner needs assistance (but not total help); for [REDACTED], Petitioner needs supervision or prompt; and Petitioner also uses assistive devices for [REDACTED]

[REDACTED]. *Id.* at 49. Petitioner always has assistance with [REDACTED] ADLs, except for [REDACTED] for which [REDACTED] needs no assistance. *Id.* Petitioner does not need supervision. *Id.* at 54.

5. As provided in the 701B, Petitioner’s needs for instrumental activities of daily living (“IADLs”) are as follows: for [REDACTED] Petitioner needs total assistance (cannot do at all); for [REDACTED] [REDACTED], Petitioner needs assistance (but not total help); for [REDACTED] [REDACTED], Petitioner needs no assistance. *Id.* at 50. Petitioner always has assistance with [REDACTED] IADLs, except [REDACTED]. *Id.*

6. In the LTC (“Long-Term Care”) Supplemental Assessment, dated April 17, 2023, it is indicated that [REDACTED] works full-time during the week and has a [REDACTED] to take care of, but that [REDACTED] is willing and able to participate in Petitioner’s care on Sundays from 2:00 p.m. to 6:00 p.m., or as needed. *Id.* at 78. Petitioner resides with [REDACTED] who is available to assist in member’s care. *Id.* at 76, 79. Petitioner’s [REDACTED] supports Petitioner with company at night because [REDACTED] works full-time. *Id.* at 76. The 701B states that [REDACTED] provided the answers to the questions contained in Petitioner’s 701B. *Id.* at 46.

7. On May 25, 2023, Respondent issued a Notice of Adverse Benefit Determination (“NABD”) reducing homemaker services from 12 hours per week to 10 hours per week. The NABD explained the basis of the reduction as follows:

We determined that your requested services are not medically necessary because the services do not meet either of the reasons 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: This decision was based on medical necessity (as defined by Agency for Health Care Administration's Medical Necessity as defined in Rule 59G-4, 192 and reflects the application of Molina Clinical Policy (332)

The reason why the request was not approved is: S5130 Homemaker Services are reduced from 12 hours per week to 10 hours per week effective 06/08/2023 by the Medical Director because the service is not medically necessary. You are already receiving other services that should meet your needs. You are going to receive 28 hours of home care assistance per week, based on Care Plan Reviewed and your current needs. This determination by the Medical Director has been made based on medical necessity (as defined by Florida law) and reflects the application of Molina Healthcare's approved review criteria and guidelines. . .

Pages 7 - 11 of RCE 1.

8. On May 25, 2025, Respondent issued a NABD reducing Petitioner's personal care services from twenty-eight (28) hours per week to eighteen (18) hours per week. The NABD explained the basis of the reduction as follows:

We determined that your requested services are not medically necessary because the services do not meet either of the reasons 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: This decision was based on medical necessity (as defined by Agency for Health Care Administration’s Medical Necessity as defined in Rule 59G-4, 192 and reflects the application of Molina Clinical Policy (332)

The reason why the request was not approved is: T1019 Personal Care Services are reduced from 28 hours per week to 18 hours per week effective 06/08/2023 by the Medical Director because the service is not medically necessary. You are already receiving other services that should meet your needs. You are going to receive 28 hours of home care assistance per week, based on Care Plan Reviewed and your current needs. This determination by the Medical Director has been made based on medical necessity (as defined by Florida law) and reflects the application of Molina Healthcare's approved review criteria and guidelines. . .

Pages 16 - 19 of RCE 1.

9. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”), dated July 6, 2023, upholding the reductions *Id.* at 40 – 43. The NPAR explained, as follows:

We made our decision based on the Florida Agency for Health Care Administration’s Long-Term Care (LTC) Program Policy (Rule 59G-4.192) and the

Molina Clinical Policy for Medical Necessity (332). It shows rules that you must meet to show medical necessity (need). Part of the rules is having an evaluation (test) to find out what you need. These tests are done the first time a member needs a test. They are also done annually (every year) and when there is a significant (big) change in the member's care. A significant (big) change may involve a change in the member's state of health or the person taking care of them. Your recent test does not show a significant (big) change in your care. You are already receiving services that should meet your needs. For this reason, the extra 10 hours of Personal Care Services and the extra 2 Hours of Homemaker Services is not approved. Please talk to your doctor and/or Case Manager about your options.

While we are denying the 10 hours of Personal Care Services and the extra 2 hours of Homemaker Services, you will still receive 18 hours of Personal Care Services and 10 hours of Homemaker Services.

Page 40 of RCE 1.

10. On July 26, 2023, Petitioner requested Fair Hearings to challenge the reduction of personal care services and homemaker services. On August 9, 2023, the undersigned issued an Order Scheduling Fair Hearings by Telephone and Prehearing Instructions, setting the hearing for August 24, 2023, which hearing was continued. On September 8, 2023, the undersigned issued a Second Order Consolidating and Scheduling Consolidated Fair Hearings by Telephone and Prehearing Instructions, setting the hearing for September 27, 2023, at 9:00 a.m. EST.

11. On August 2, 2023, Petitioner's physician, Yesenia Medina, D.O, wrote a letter concerning Petitioner, which states, in pertinent part:

My patient [Petitioner] (DOB: 04/04/1950, MRN: 333605) has been under my care since May 4<sup>th</sup>, 2023. Patient's diagnosis includes: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Patient needs support for all daily activities due to several physical and functional limitations. Recommendation 40 hours per week.

See page 3 of PCE 1.

12. Ms. Matos is a Utilization Management Director with Molina. Dr. Novoa is a Long-Term Care Medical Director for Molina. Ms. Matos' testimony established that Petitioner's diagnosis include [REDACTED] as well as other physical health issues, [REDACTED]. Ms. Matos testified that that information, mostly based on the information in the 701B assessment, a functional level review tool, was taken into consideration when determining the hours of personal care and homemaker services Petitioner would receive each week. Other factors considered were Petitioner's natural supports, [REDACTED] family, in that Petitioner lives with [REDACTED] who is with [REDACTED] in the evenings and during the night, and that [REDACTED] receives caregiver help from [REDACTED] on the weekends. Dr. Novoa's testimony established that under Florida Medicaid law, personal care and homemaker services are determined on the basis of medical necessity, including that the services 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 and furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider. Dr. Novoa acknowledged a letter from Petitioner's doctor, but that there was no information as to why more services were medically necessary. Dr. Novoa concluded that eighteen (18) hours of personal care services and ten (10) hours of homemaker services each week were adequate to meet Petitioner's medical needs.

13. [REDACTED] argued that the person who came to home to assess [REDACTED] medical needs did not have the medical knowledge that situation required. [REDACTED] contended that a registered nurse or a medical specialist would have resulted in a different assessment outcome. [REDACTED] testified that there is missing information from the 701B assessment, such as the fact that [REDACTED] has [REDACTED], sometimes [REDACTED] cannot stand up on [REDACTED] own, and that in

addition to a [REDACTED], [REDACTED]. [REDACTED] further testified that the August 2, 2023, doctor's note from Dr. Medina states that forty (40) hours per week for ADL and IDL support would meet Petitioner's needs. [REDACTED] noted that there is also a letter from [REDACTED] psychiatrist that [REDACTED] needs more care, but the letter is not in evidence. [REDACTED] contended that [REDACTED] should not be in a hospital or nursing home facility, and that [REDACTED] is better staying at home; however, there is a gap in care when [REDACTED] is left by [REDACTED] when [REDACTED] are working during the day, when [REDACTED] cannot handle things. [REDACTED] concluded that Petitioner needs more personal care and homemaker services hours per week to meet [REDACTED] medical needs.

#### **CONCLUSIONS OF LAW**

14. 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).

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

16. The burden of proof in this proceeding is governed by Fla. Admin. Code R. 59G-1.100(17)(g), which provides as follows:

The burden of proof is on the party asserting the affirmative of an issue, except as otherwise required by statute. The burden of proof is on the Agency or plan, whichever is applicable, when the issue presented is the suspension, reduction, or termination of a previously authorized service. The burden of proof is on the recipient or enrollee, when the issue presented is the denial or a limited authorization of a service. The party with the burden of proof shall establish its position to the satisfaction of the Hearing Officer by a preponderance of the evidence.

17. In the instant case, Respondent is reducing existing services. As such, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to 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.)

18. The Statewide Medicaid Managed Care (“SMMC”) 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

...

**1.3.5 701-B Comprehensive Assessment**

An individualized, complete assessment of an individual’s medical, developmental, behavioral, social, financial, and environmental status. The assessment is conducted by a trained individual employed by the Department of Elder Affairs Comprehensive Assessment and Review for Long-Term Care Services (CARES) program or the LTC plan, to determine eligibility for the LTC program based on the need for a nursing facility level of care.

...

### **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)

...

### **1.3.16 Natural Supports**

Unpaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.

## **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 restrictive setting

...

### **4.2.1.9 Homemaker Services**

The provision of general household activities (such as meal preparation) and routine household care (including laundry and pest control) by a trained homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities.

...

### **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 1-8.

19. 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.

20. 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:

### **2.83 Medically Necessary or Medical Necessity**

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.

### **Personal Care Services**

21. In this case, Respondent reduced Petitioner’s personal care services from twenty-eight (28) hours per week to eighteen (18) hours per week based on medical necessity. *See supra* ¶ 8, 9. Respondent’s NABD and NPAR do not specify which of the five medical necessity criteria are no longer met. *See supra* ¶ 8. However, as established by the evidence and testimony, Petitioner’s personal services were reduced as “in excess of” Petitioner’s needs.

22. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: are medically necessary, as defined in the SMMC LTC Policy; do not duplicate another service; and meet the criteria as specified in the SMMC LTC Policy. See supra ¶ 18. As provided in the LTC Policy, personal care is 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.” See supra ¶ 18.

23. The evidence presented in this case reflects that Respondent’s reduction of personal care services is warranted under the circumstances of this case. Specifically, in regards to [REDACTED] ADLs, for [REDACTED] Petitioner needs assistance (but not total help); for [REDACTED], Petitioner needs supervision or prompt; and Petitioner also [REDACTED]. See supra ¶ 4. Petitioner always has assistance with [REDACTED] ADLs, except for [REDACTED] for which [REDACTED] needs no assistance. See supra ¶ 4.

24. Regarding [REDACTED] IADLs, for [REDACTED], and [REDACTED], Petitioner needs total assistance (cannot do at all); for [REDACTED], Petitioner needs assistance (but not total help); for [REDACTED], Petitioner needs no assistance. See supra ¶ 5. Petitioner always has assistance with [REDACTED] IADLs, except [REDACTED] for which [REDACTED] needs no assistance. See supra ¶ 5.

25. Section 1.3.16 of the SMMC LTC Policy provides that natural supports are “[u]npaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.” See supra ¶ 18. With regard to living arrangements, Petitioner resides in the home with [REDACTED] See supra ¶ 2, 12. [REDACTED] is [REDACTED] primary caregiver and [REDACTED]

provides assistance in the evenings. *See supra* ¶ 2, 12. Petitioner’s [REDACTED] work full-time during the week. *See supra* ¶ 6. Petitioner does not need supervision due to health conditions. *See supra* ¶ 4.

26. As Respondent bears the burden of proof, Respondent must show that the reduction of personal care services was correct. Here, the Petitioner receives a total of twenty-eight (28) hours per week of combined services: eighteen (18) hours of personal care services per week and ten (10) hours of homemaker services. *See supra* ¶ 7, 8. Dr. Novoa provided credible and persuasive testimony that the approved level of services is adequate to meet Petitioner’s functional needs as stated in the 701B, which was completed with responses provided by [REDACTED]. *See supra* ¶ 6, 12-13.

27. The Definitions Policy requires that personal care services must . . . [b]e 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.” *See supra* ¶ 20. The NPAR explains that Petitioner is “already receiving other services that should meet your needs.” *See supra* ¶ 8. Considering the LTC Policy’s definitions for natural supports and personal care services, *supra* ¶ 18, Respondent demonstrated that Petitioner’s aforementioned needs, *supra* ¶ 2 – 4, and 9, are sufficiently met by the 18 hours per week of personal care services. Given that Respondent established that the reduction of personal care services is warranted in this matter, the 10 additional hours of personal care services at issue are “in excess of [Petitioner’s] needs.” *See supra* ¶ 20.

28. Further, although Petitioner’s provider recommended a total of forty (40) hours of home care services for Petitioner, *supra* ¶ 11, the provider did not specify which type of LTC

service, or mix of LTC services, were recommended. “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 supra ¶ 20. Accordingly, the record shows that the additional personal care services at issue do not meet medical necessity criteria.

29. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned concludes that Respondent has proven by a preponderance of the evidence that Respondent’s reduction of Petitioners’ personal care services is correct.

#### **Homemaker Services**

30. In this case, Respondent reduced Petitioner’s homemaker services from twelve (12) hours per week to ten (10) hours per week based on medical necessity. See supra ¶ 7, 9. Respondent’s NABD and NPAR did not specify which of the four medical necessity criteria are no longer met. See supra ¶ 7, 9. However, as established on the record by the evidence and testimony, Petitioner’s homemaker services were reduced as “in excess of” Petitioner’s needs.

31. Section 4.1 of the SMMC LTC Policy provides that Florida Medicaid LTC plans cover services that: are medically necessary, as defined in the SMMC LTC Policy; do not duplicate another service; and meet the criteria as specified in the SMMC LTC Policy. See supra ¶ 18. As provided in the LTC Policy, homemaker services are to provide “the provision of general household activities (such as meal preparation) and routine household care (including laundry and pest control) by a trained homemaker, **when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities.**” See supra ¶ 18. (emphasis added).

32. The evidence presented in this case reflects that Respondent's reduction of homemaker services from twelve (12) hours per week to ten (10) hours per week is warranted under the circumstances of this case. IADL tasks most closely align to the definition of homemaker services. See supra ¶ 18. Specifically, regarding Petitioner's IADLs, for [REDACTED], Petitioner needs total assistance (cannot do at all); for [REDACTED], Petitioner needs assistance (but not total help); for using the [REDACTED], Petitioner needs no assistance. See supra ¶ 5. Petitioner always has assistance with [REDACTED] IADLs, except [REDACTED] for which [REDACTED] needs no assistance. See supra ¶ 5.

33. With regard to living arrangements, Petitioner resides in the home with [REDACTED], and [REDACTED] is [REDACTED] primary caregiver. See supra ¶ 2, 12. Petitioner's [REDACTED] work full-time during the week but provide natural support in the evenings and on the weekend. See supra ¶ 6.

34. Section 1.3.14 of the LTC Policy requires that "LTC supportive services must . . . [b]e 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." See supra ¶ 18. Pertinent to this matter, section 1.3.16 of the LTC Policy provides that natural supports are "[u]npaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports." See supra ¶ 18. With regard to living arrangements, Petitioner resides in the home with [REDACTED]. [REDACTED] is [REDACTED] primary caregiver and [REDACTED] provides assistance in the evenings. See supra ¶ 2, 12. Petitioner's [REDACTED] work full-time during the week. See supra ¶ 6. Petitioner does not need supervision and is therefore able to

stay in the home for short periods of time. See supra ¶ 4. Therefore, Petitioner has natural supports available to assist with [redacted] care and homemaker needs. As Dr. Navoa testified, the approved level of services are adequate to meet Petitioner's functional needs as stated in the 701B, which was completed with responses provided by [redacted]. See ¶ 6, 12-13.

35. Based on the foregoing, the record shows that the previously approved level of homemaker services are not "individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment," and are "in excess of the patient's needs." Accordingly, the record shows that the additional homemaker services at issue do not meet medical necessity criteria.

36. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned concludes that Respondent has proven by a preponderance of the evidence that Respondent's reduction of Petitioner's homemaker services is correct.

**IT IS THEREFORE ORDERED AND ADJUDGED THAT:**

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

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

**DONE** and **ORDERED** this 15th day of November, 2023 in Tallahassee, Leon County, Florida.



Debbie K. Winicki  
23-FH1873 and 23-FH1874  
2023.11.15 12:41:10 -05'00'

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**DEBBIE WINICKI, 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:**



**Molina Health Care of Florida, Inc.  
MedicaidFairHearings@MolinaHealthCare.com**

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