



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

FILED

Nov 09, 2023, 1:20 pm

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1895
Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH1896
Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice the undersigned convened a telephonic Medicaid Fair Hearing on September 21, 2023, at 10:30 a.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Kimberly Bouchette
Clinical Appeals Coordinator
Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The first issue is whether Petitioner proved by a preponderance of the evidence that Respondents denial of Petitioner's request for seven (7) home delivered meals, weekly was incorrect.

The second issue is whether Petitioner proved by a preponderance of the evidence that Respondents denial of Petitioner's request for thirty (30) hours of personal care hours was incorrect.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. Petitioner, [REDACTED] appeared as Petitioner's representative for the hearing. [REDACTED] appeared as a witness for Petitioner but did not testify.

Kimberly Bouchette ("Ms. Bouchette"), Clinical Appeals Coordinator for Sunshine Health Plan, Inc. ("Sunshine") appeared as a representative for Respondent. Dr. John Carter ("Dr. Carter") Long Term Care Medical Director for Sunshine appeared as a witness for Respondent. The following employees of Sunshine appeared on behalf of Respondent but did not testify at the Fair Hearing: Amanda Elwell, Care Coordinator; Stacy Hammond, Long Term Care Case Manager; Lauren Greenwald, Utilization Management.

Chrissie Simmons ("Ms. Simmons"), Medical Health Care Program Analyst with the Agency for Health Care Administration ("AHCA" or "Agency"), appeared as an observer for the Agency.

Petitioner did not introduce any exhibits into evidence at the Fair Hearing.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one-hundred and ninety-two (192)-page evidence packet. This document appears in the Office of Fair Hearings' document management system as file titles "MFH packet [redacted]-Part 1 pdf" and "MFH packet[redacted]-Part 2.pdf." Absent an objection by the Petitioner, the undersigned admitted the one-hundred and ninety-two (192)-page evidence packet into evidence as Respondent's Composite Exhibit 1 ("RCE1").

FINDINGS OF FACT

1. Petitioner is an enrolled Petitioner of Sunshine's Long-Term Care ("LTC") program. See RCE 1 at p.2. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida. *Id.* at 167.

2. Petitioner is an [redacted]. *Id.* at 74. Petitioner lives [redacted]
[redacted]

3. Petitioner has been diagnosed with the following conditions: [redacted]
[redacted]
[redacted]. *Id.* at 76, 78, 80-82.

4. The Florida Department of Elder Affairs issued a 701B Comprehensive Assessment ("701B") dated August 9, 2023. [redacted] all answers to the questions in the Assessment. The 701B reflects the following regarding Petitioner's Activities of Daily Living ("ADLs"): Petitioner needs total assistance with (cannot do at all): [redacted] Petitioner needs assistance (but not total help) with [redacted]. *Id.* at 60.

5. The 701B dated August 9, 2023, reflects the following regarding instrumental activities of daily living ("IADLs"): Petitioner needs total assistance with (cannot do at all): [redacted]

[REDACTED] *Id. at 61.*

Petitioner needs assistance (but not total help) with [REDACTED]

[REDACTED]. *Id.*

6. Petitioner requested seven (7) home delivered meals weekly. *Id.* at 6-14. On May 31, 2023, Respondent issued a Notice of Adverse Benefit Determination (“NABD”) denying Petitioner’s request based upon lack of medical necessity. *Id.* at 6-14. The NABD explained the basis of the denial as follows in pertinent part:

- Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all home and community-based services.
 1. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness injury under treatment, and not in excess of the patient’s needs;
 2. Be reflective of the level of a service that can be safely furnished and for which no equally effective in 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 the addition of 7 meals per week of Home Delivered Meals is denied as not medically needed. Based on the assessment, the Petitioner’s currently approved services are adequate to meet the Petitioner’s care needs. The Petitioner's present care plan includes 22 hours per week of Personal Care Services and 4 hours per week of Homemaker Services. The Petitioner lives with [REDACTED] who can prepare meals as an informal support. The Petitioner is reported to receive monthly SNAP assistance which can be used to purchase frozen meals,

if desired. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Id. at 6-14.

7. Petitioner requested a plan appeal on [REDACTED] request for Home Delivered Meals. On July 24, 2023, Sunshine issued a Notice of Plan Appeal Resolution (“NPAR”). *Id.* at 140-

143. The NPAR explained as follows in pertinent part:

On 06/28/2023 we received your timely plan appeal request about Sunshine Health’s Notice of Adverse Benefit Determination dated 05/31/2023, Notice of Adverse Benefit Determination Number S51700531232678, denying the addition of 7 meals per week of Home Delivered Meals provided to [REDACTED].

On 07/24/2023, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby denies your plan appeal. As a result, [REDACTED] will not receive the addition of 7 meals per week of Home Delivered Meals, effective 07/24/2023.

The reason for our decision was based on the assessment of the Petitioners care needs and household and caregiver status, the denial of the addition of 7 meals per week of Home Delivered Meals is upheld. The presently approved services are enough to meet the Petitioner's care needs. 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 who is Board Certified Physician in Internal Medicine.

Id. at 140-143.

8. Petitioner requested an additional thirty (30) hours of Personal Care Services. On May 13, 2023, Respondent issued an NABD denying Petitioner’s request based on lack of medical necessity. *Id.* at 15-23. The NABD stated as follows in pertinent part:

- Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all home and community-based services.

1. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness injury under treatment, and not in excess of the patient’s needs;

2. Be reflective of the level of a service that can be safely furnished and for which no equally effective in 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 30 hours per week of Personal Care Services is partially approved. The Petitioner'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 Petitioner'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 14 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 15-23.

9. Petitioner requested a plan appeal on the denial of Personal Care Services. In an NPAR dated July 24, 2023, Respondent denied the plan appeal. *Id.* 144-147. The NPAR stated as follows in pertinent part:

On 06/28/2023 we received your timely plan appeal request about Sunshine Health's Notice of Adverse Benefit Determination dated 05/31/2023, Notice of Adverse Benefit Determination Number T10040531232678, partially denying the extra 30 hours per week of Personal Care Services provided to [REDACTED].

On 07/24/2023, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby denies your plan appeal. As a result, [REDACTED] will not receive the extra 30 hours per week of Personal Care Services, effective 07/24/2023.

The reason for our decision was based on the assessment of the Petitioners care needs and household and caregiver status, the denial of the remaining requested 14 hours per week of Personal Care Services is upheld. The presently approved services are enough to meet the Petitioner's care needs. 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 who is Board Certified Physician in Internal Medicine.

Id. at 144-147.

9. On August 3, 2023, Petitioner requested a Fair Hearing to challenge the denial of home delivered meals and personal care services. On September 7, 2023, the undersigned issued an Order Consolidating and Scheduling a Fair Hearing by Telephone and Prehearing Instructions, setting the hearing for September 21, 2023, at 9:00 a.m. Eastern Standard Time.

10. [REDACTED] testified to the following:

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

11. Dr. John Carter, Long-Term Care Medical Director with Sunshine, testified to the following:

a. The Petitioner's current care plan includes twenty- two (22) personal care hours weekly, plus four (4) homemaker hours, weekly. This combines for a total of twenty-

six (26) hours of combined services under the Participant Directed Option (PDO). The Petitioner's [REDACTED], [REDACTED], is [REDACTED] care worker. Petitioner lives at home with [REDACTED]
[REDACTED]

- b. [REDACTED] does not work outside the home.
- c. On Pages 74- 75 of RCE 1, the 701B indicates the Assessment was done in August 2023 and that [REDACTED] was providing the answers to the questions.
- d. The Petitioner receives [REDACTED]
- e. The living situation of the Petitioner as in whether Petitioner lives alone or with family are considered when approving services.
- f. Given that the Petitioner lives with [REDACTED] and [REDACTED] caregiver does not work outside the home, Sunshine believes that they have authorized the appropriate level of services.

12. In making its determination, Respondent relied upon the Sunshine Health Policy and Procedure LT.UM.09, regarding personal care services and home delivered meals which states in pertinent part as follows:

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.

...

1. Determinants for Services

When considering the level of support the member requires and which of the ancillary services may support the member's cognitive, functional, environmental,

and social needs, several elements are to be considered. The review for the medical necessity of the ancillary services includes consideration of the member's support needed due to ADL deficits, living situation, and supervision needs.

a) Activities of Daily Living (ADL's)/Instrumental Activities of Daily Living (IADL's)

- Independent where member is able to provide the task without support, with or without assistive devices
- Minimal functional impairment where the ADL's require one of the following:
 - Supervision
 - At least minimum assistance
 - Member ambulates with assistance of a person or a device
 - Member transfers require at least minimum assistance
- b) Living situation consideration
 - Lives alone.
 - Lives with family (with consideration of the number of days and hours that family members are not available to assist the member).
 - Lives with non-family (with consideration of the number of days and hours that non-family members are not available to assist the member).

7. 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 preparing 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 not 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.

5) Home Delivered Meals

The provision of nutritionally sound meals to be delivered to the residence of the member who has difficulty shopping for or preparing appropriate, nutritious meals without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake. The meals must meet the current Dietary Guidelines for Americans, the United States Department of Agriculture My Pyramid Food Intake Pattern and reflect the predominant statewide demographic. The Home Delivered Meals can be hot, cold, frozen, dried, canned or a combination of these options. More than one meal can be delivered at a time if there is proper storage and heating facilities at the member's residence. The member must be able to prepare and consume the meals him/herself with available assistance.

To be considered a home delivered meal, each meal must be designed to provide a minimum 33% of the current Dietary Reference Intake (DRI). The meals shall meet the Dietary Guidelines for Americans and the USDA My Food Pyramid Intake Pattern. The meals must reflect the predominant statewide demographic.

Id. at 167-175.

CONCLUSIONS OF LAW

13. 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).

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

15. Because Petitioner is requesting new services, Fla. Admin. Code R. 59-1.100(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.)

16. The Florida Statewide Medicaid 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 the home delivered meals and personal care services at issue:

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

4.2.1.8 Home Delivered Meals

The provision of nutritionally sound meals delivered to an enrollee's home when an enrollee has difficulty shopping for, or preparing food, without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake. The meals must meet the current Dietary Guidelines for Americans, the United States Department of Agriculture My Pyramid Food Intake Pattern and reflect the predominant statewide demographic.

...

4.2.2 Mixed Services

Mixed services may exceed State Plan limit on those services in accordance with this policy. The Long-term Care benefit includes coverage of the following mixed services:

...

4.2.2.5 Medical Equipment and Supplies

Medical Equipment and Supplies In accordance with Rule 59G-4.070, F.A.C. This service includes the provision of medical equipment and supplies specified in the plan of care, including: devices, controls, or appliances that enable the enrollee to increase the ability to perform activities of daily living; devices, controls, or appliances that enable the enrollee to perceive, control, or communicate with the environment in which he or she lives; items necessary for life support or to address an enrollee's physical conditions, along with ancillary supplies and equipment necessary to the proper functioning of such items; such other durable and non-durable medical equipment not available under the State Plan that is necessary to address enrollee needs, including consumable medical supplies, such as adult diapers; and repair of such items or replacement parts.

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.

...

LTC Policy at 1-8.

17. 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 2-3.

18. 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 p. 7.

Home Delivered Meals

19. Petitioner requested seven (7) home delivered meals. Respondent issued an NPAR on May 31, 2023 denying the request based upon lack of medical necessity. *See* ¶ 6.

20. Florida Medicaid Long-Term Care plans cover services that meet all of the following: “[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,” and “[b]e 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.” *See* ¶ 17.

21. Section 4.2.1.8 of the LTC Policy provides that Home Delivered Meals are “[t]he provision of nutritionally sound meals delivered to an enrollee’s home when an enrollee has difficulty shopping for, or preparing food, without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake.” *See* ¶ 16.

22. Section 2.83 of the Definitions Policy mandates that “[t]he medical or allied care, goods, or services furnished or ordered 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 ¶ 18.

23. In denying this benefit, Respondent considered the personal care and homemaker services already in place as well as the Petitioner’s living situation in which [REDACTED]. See ¶ 11.

24. Petitioner receives a total of 26 hours weekly of home health care under the Patient Directed Option which can be used for meal preparation. See ¶ 12. Petitioner lives [REDACTED] who can assist in shopping and meal preparation. The evidence presented in this case demonstrates that the 7 home delivered meals per week at issue are not medically necessary as they would be in excess of [REDACTED] needs.

25. Here, Petitioner failed to provide evidence to show how home delivered meals would not duplicate services [REDACTED] is already receiving.

26. According to the Medicaid long-term care guidelines, services should not be duplicative. See ¶ 16. If Petitioner received home delivered meals in addition to the amount of Medicaid provided by homemaker and personal care services, the undersigned concludes that these services would be duplicative and thus in excess of medical necessity.

27. Considering Petitioner’s medical condition and current level of authorized services, Respondent established that the amount of homemaker and personal care services that Petitioner receives is adequate to meet Petitioner’s needs, including meal preparation, and home delivered meals service would be duplicative.

28. Considering the evidence submitted, testimony provided, and applicable laws and policies, the undersigned finds that Petitioner did not prove by a preponderance of evidence that the denial of home delivered meals was incorrect.

PERSONAL CARE SERVICES

29. Petitioner requested 30 additional hours of personal care services. Respondent issued an NPAR dated July 24, 2023 denying the request based upon medical necessity. Respondent approved 16 hours of the request and denied the remaining 14 hours. *See ¶ 8.*

30. According to the Long-Term Care Guidelines definition of medical necessity, 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 ¶ 18.*

31. Here, Petitioner’s care plan includes 26 hours of home health aide hours per week. Petitioner also lives with [redacted] family who help with [redacted] care.

4. Regarding Petitioner’s specific needs for assistance with ADLs and IADLs, the 701B provides the following: for ADLs Petitioner needs total assistance with (cannot do at all):

[redacted] Petitioner needs assistance (but not total help) with [redacted]

[redacted]; for IADLS: Petitioner needs total assistance with

(cannot do at all): [redacted]

[redacted] Petitioner needs assistance (but not total help) with using the

[redacted]” *See ¶ 4-5.* [redacted] gave the

answers used in compiling this assessment.

32. Petitioner lives with [REDACTED]. Petitioner needs total assistance with [REDACTED]. While Petitioner does need total assistance with IADLs involving [REDACTED].

33. Petitioner did not provide evidence to show that the additional hours requested would not be in excess of Petitioner's needs, nor did Petitioner specify which ADLs or IADLs were not being attended to with the current plan of care. See ¶ 10.

34. Considering Petitioner's medical condition and current level of authorized services, it appears that the amount of homemaker and personal care services that Petitioner receives is adequate to meet Petitioner's personal care needs.


35. Considering the evidence submitted, testimony provided, and applicable laws and policies, the undersigned finds that Petitioner did not prove by a preponderance of evidence that the denial of personal care hours was incorrect.

DECISION

Respondent's denial of home delivered meals is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

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

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

 Lynne Ringers
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LYNNE RINGERS, 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:



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