



FILED

Nov 21, 2023, 11:34 am

OFFICE OF FAIR HEARINGS

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

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH2104

Plan ID No.: [REDACTED]

vs.

HUMANA MEDICAL PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the Office of Fair Hearings convened a telephonic Medicaid Fair Hearing in the above styled case on October 17, 2023, at 9:01 a.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Markeshi Lee

Grievance & Appeals Fair Hearing Specialist

Humana Medical Plan, Inc.

STATEMENT OF ISSUE

The issue is whether Petitioner proved by a preponderance of the evidence that Respondent's decision to deny Petitioner's request for an additional twenty-eight (28) hours per week of personal care services was incorrect.

PRELIMINARY STATEMENT

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

Markeshi Lee, Grievance & Appeals Fair Hearing Specialist for Humana Medical Plan, Inc. (“Humana”) appeared on behalf of Respondent. Dr. Manohar Chenchugalla (“Dr. Chenchugalla”), Medical Director for Humana, attended as a witness for Respondent.

Doris Rivera, Medical Healthcare Program Analyst and Fair Hearing Liaison for the Agency for Health Care Administration (“Agency” or “AHCA”) appeared as an observer.

Petitioner did not introduce any exhibits at the Fair Hearing.

Prior to the Fair Hearing, Respondent sent to the Office of Fair Hearings and Petitioner a three hundred and nine (309)-page evidence packet. The evidence appears in the Office of Fair Hearings’ document management system as “Evidence Packet 23-FH2014_Part1.pdf”, “Evidence Packet 23-FH2104_Part2.pdf”, “Evidence Packet 23-FH2014_Part3.pdf”, “Evidence Packet 23-FH2014_Part4.pdf”, “Evidence Packet 23-FH2014_Part5.pdf”, “Evidence Packet 23-FH2014_Part6.pdf”, “Evidence Packet 23-FH2014_Part7.pdf”, “Evidence Packet 23-FH2014_Part8.pdf”, and “Evidence Packet 23-FH2014_Part9.pdf”. Absent an objection from Petitioner, the undersigned admitted the three hundred and nine (309)-page evidence packet into evidence as Respondent’s Composite Exhibit 1 (“RCE 1”).

During the Fair Hearing, Petitioner’s Authorized Representative requested time to submit a letter from Petitioner’s doctor. The Fair Hearing record remained open until Friday, October 20, 2023, at 5:00 p.m. Respondent had until Friday, October 27, 2023, at 5:00 p.m. to submit a response or objection to Petitioner’s doctors’ letters/documents. On October 17, 2023, Petitioner’s Authorized Representative submitted a two (2) page document, including a letter from Dr. Dean Guadagna, D. O. Medical Director with CanoHealth. The additional evidence appears in the Office of Fair Hearings’ document management system as “Post Hearing

Evidence.pdf". Absent an objection from Respondent, the undersigned admitted the two (2) page document into evidence as Petitioner's Composite Exhibit 1 ("PCE 1").

FINDINGS OF FACT

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

2. As of the date of the Fair Hearing, the Petitioner is [REDACTED] ([REDACTED]) [REDACTED]. *Id.* [REDACTED] lives with [REDACTED] adult [REDACTED], [REDACTED], in a private residence. *Id.* at 58. Petitioner has the following medical conditions: [REDACTED] ([REDACTED]), [REDACTED]), [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. *Id.* at 63 – 64. Petitioner is [REDACTED] [REDACTED] days in a month. *Id.* at 66. Petitioner needs supervision. *Id.*

3. [REDACTED] assisted Petitioner with answering the questions in the Florida Department of Elder Affairs 701B Comprehensive Assessment ("701B"), dated August 18, 2023. *Id.* at 57 – 73. According to the 701B, Petitioner needs the following assistance with [REDACTED] activities of daily living ("ADLs"): needs total assistance (cannot do at all) with [REDACTED], [REDACTED]; needs assistance (but not total help) with [REDACTED]; and uses an [REDACTED]. *Id.* at 61. Petitioner always has assistance with [REDACTED], [REDACTED] [REDACTED], and has assistance most of the time with [REDACTED]. *Id.*

4. According to the 701B, Petitioner needs the following assistance with [REDACTED] instrumental activities of daily living ("IADLs"): needs total assistance (cannot do at all) with [REDACTED]

[REDACTED];
needs assistance (but not total help) with [REDACTED]; and needs supervision or prompting
with [REDACTED]. Petitioner always has assistance with [REDACTED]
[REDACTED], [REDACTED], [REDACTED]
[REDACTED], and has assistance most of the time with [REDACTED]. *Id.*

5. On May 26, 2023, Petitioner requested an additional twenty-eight (28) hours per week of personal care services. In the Notice of Adverse Benefit Determination (“NABD”) dated June 1, 2023, Respondent denied Petitioner’s request as of June 1, 2023. *Id.* at 7 – 14. The NABD explained the basis of the decision 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.

...

Other Authority

The facts that we used to make our decision are:

This determination of the Medical Director has been made based on medical necessity (as defined by Florida law – specifically see checked box above) and reflects the application of the Plan’s approved review criteria and guidelines.

You have requested additional 28 hours of personal care (PC) services per week. You currently receive 32 hours of PC per week and 9 hours of homemaker (HMK) services per week. You live with your [REDACTED] who works Monday through Thursday. You are [REDACTED]. You have [REDACTED]. You need maximum assistance with all the activities of daily living. You do not have significant change overall in your needs. You receive 41 hours of home health [aide] per week which should be sufficient. We are denying your request.

...

RCE 1 at 7 – 8.

6. Petitioner requested a plan appeal and received a Notice of Plan Appeal Resolution (“NPAR”), dated July 10, 2023, upholding the denial of additional personal care services. *Id.* at 16

– 21. The NAPR states, in pertinent part:

On 06/15/2023, we received your timely plan appeal request regarding Humana Healthy Horizons Long-Term Care Plan’s Notice of Adverse Benefit Determination dated 07/03/2023, [REDACTED], denying the services from authorization [REDACTED] provided to [Petitioner].

On 07/03/2023, after consideration of the information you provided to Humana Long-Term Care Plan in support of your plan appeal, was reviewed by a medical director who is an MD and board certified in Internal Medicine hereby denies your plan appeal.

The reason for the decision was based on the information received.

You have requested that the additional 28 hours of personal care service each week that was denied in your initial request be reconsidered (appeal) for. You have [REDACTED]. You do not have [REDACTED]. You sometimes have [REDACTED]. You have a [REDACTED]. You live with your [REDACTED]. Your [REDACTED] helps to care for you. You use a [REDACTED]. You use a [REDACTED]. You need help [REDACTED]. You need help with [REDACTED]. The denial of 28 additional hours of personal care service each week is being upheld. The hours you are currently receiving should be enough to meet your medical needs and can be divided into shifts to better meet your needs.

This determination of the Medical Director has been made based on medical necessity (as defined by Florida law) and reflects the application of the Plan's approved review criteria and guidelines, defined in Chapter 59G-1.010 (2.83) Florida Administrative Code.

...

7. On August 28, 2023, Petitioner requested a Fair Hearing to challenge the denial of additional personal care services. On September 19, 2023, the Hearing Officer issued an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions, setting the hearing for October 17, 2023, at 9:00 a.m. EST.

8. Petitioner's authorized representative and adult child, [REDACTED], testified as follows:
- a. [REDACTED] works full-time from home, 9:00 a.m. to 5:30 p.m.
 - b. [REDACTED]'s finance, [REDACTED] ("[REDACTED]"), acts as Petitioner's Direct Service Worker (DSW) under the Participant Direction Option ("PDO") program. [REDACTED] is with Petitioner on Fridays from 9:00 a.m. to 4:00 p.m. and on Sundays from 8:00 a.m. to 3:00 p.m.
 - c. Petitioner's home health aide is in the home from 9:00 a.m. to 4:00 p.m., Monday through Thursday. [REDACTED] wants the additional personal care hours to extend care into the evenings so [REDACTED] can go to the store.
 - d. On Fridays the home health aide is in the home for three (3) hours, 5:30 p.m. to 8:30 p.m., to perform homemaker services, but they also perform personal care services as requested by [REDACTED].
 - e. It is hard for [REDACTED] to take care of Petitioner because Petitioner is about 240 pounds and [REDACTED] is 150 pounds. [REDACTED] sprained [REDACTED] back

twice assisting Petitioner. [REDACTED] wants an aide to help [REDACTED] clean and change Petitioner in the evenings.

- f. [REDACTED] does not have a life outside of taking care of Petitioner.
- g. [REDACTED] mostly requests respite care hours when [REDACTED] job holds events.
- h. [REDACTED] referred to a letter from Petitioner's doctor, Dr. Dean Guadagna, D.O. Medical Director with CanoHealth, which called for Petitioner's home health aid hours to be increased. See PCE 1 at 2.

9. Dr. Chenchugalla testified as follows:

- a. Petitioner was approved to receive thirty-two (32) hours of personal care services and nine (9) hours of homemaker services, for a total of forty-one (41) hours of care services each week.
- b. In September of 2023, additional hours were approved, including fourteen (14) hours of personal care PDO services and one (1) hour of homemaker PDO services. Petitioner is now receiving forty-six (46) hours per week of personal care services and ten (10) hours per week of homemaker services, for a total of fifty-six (56) hours of care services each week.
- c. The approved services are sufficient based on Petitioner's 701B assessment.

CONCLUSIONS OF LAW

10. 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).

11. This hearing was held as a *de novo* proceeding pursuant to Fla. Admin. Code R. 59G-

1.100(17)(b).

12. Because Petitioner is requesting a new service, 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.)

13. The 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. *See* RCE 118 – 139. The LTC Policy provides the following with respect to personal care and homemakers:

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
- [REDACTED] (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

...

4.2.1.1 Adult Companion Care

The provision of non-medical care, supervision when necessary to protect the health, safety, and well-being of the enrollee, or social enrichment of a functionally impaired enrollee. This includes assistance or supervision with meal preparation, laundry, and light housekeeping tasks incidental to the care and supervision of the enrollee.

...

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 [REDACTED], 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.

...

6.2 Specific Criteria

In order to receive LTC services, services must be documented on an individual 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. [emphasis supplied]

RCE 1 at 120 – 127.

14. The LTC Policy also provides the following regarding 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.

...

RCE 1 at 121 – 122.

15. 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.

16. The Personal Care Services Coverage Policy (“PCS Policy”), which is incorporated by reference in Rule 59G-4.215, F.A.C., states as follows:

1.1 Description

Florida Medicaid personal care services provide medically necessary assistance, in the home or in the community, with activities of daily living (ADL) and age appropriate instrumental activities of daily living (IADL) to enable recipients to accomplish tasks they would normally be able to do for themselves if they did not have a medical condition or disability.

...

1.1.2 Statewide Medicaid Managed Care Plans

Florida Medicaid managed care plans must comply with the coverage requirements outlined in this policy, unless otherwise specified in the AHCA contract with the Florida Medicaid managed care plan. The provision of services to recipients enrolled in a Florida Medicaid managed care plan must not be subject to more stringent coverage limits than specified in Florida Medicaid policies.

...

1.3 Definitions

The following definitions are applicable to this policy. For additional definitions that are applicable to all sections of Rule Division 59G, F.A.C., please refer to the Florida Medicaid definitions policy.

...

1.3.6 Home Health Services

Medically necessary services that can be safely provided to the recipient in their home or in the community that include home health visits (skilled nursing and home health aide services), private duty nursing, and 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

5.1 General Non-Covered Criteria

Services related to this policy are not reimbursed when any of the following apply:

- The service does not meet the medical necessity criteria listed in section 1.0.
- The recipient does not meet the eligibility requirements listed in section 2.0.
- The service unnecessarily duplicates another provider's service.

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

Florida Medicaid may reimburse for some services listed in this section through a different service benefit.

...


7.0 Authorization

7.1 General Criteria

The authorization information described below is applicable to the fee-for-service delivery system. For more information on general authorization requirements, please refer to Florida Medicaid’s General Policies on authorization requirements.

...

Personal Care Task	General Time Allowances
Bathing	
Full-body Bath: Tub, shower or sponge/bed bath.	Up to 30 minutes. May rotate with partial bath based on recipient’s needs
Partial Bath: A sponge bath includes, at a minimum, bathing of the face, hands, and perineum.	15–20 minutes per partial bath
Dressing	
Laying out clothing, handing and retrieving clothing, putting clothes on and taking them off, including handling fasteners, zippers, and buttons.	15 minutes
Application of prosthetic devices or application of therapeutic stockings.	May add 15 minutes for applying hose and/or Prosthesis
Grooming and Skin Care	
Brushing teeth, denture care, shaving, washing and drying face and hands. Applying lotion to non-broken skin.	15–30 minutes
Shampoo and comb hair, basic hair care, basic nail care.	15 minutes
Positioning	
Moving recipient to and from a lying position, turning side to side, and positioning recipient in bed.	10 minutes/every 2 hours when medically indicated

Transfers	
Moving recipient into and out of a bed, chair, or wheelchair. May include the use of assistive devices.	15 minutes/every 2 hours when medically indicated
Toileting and Maintaining Continence	
Includes transfer on or off the toilet, bedside commode, urinal, or bedpan. Includes cleaning the perineum and cleaning after an incontinent episode. Includes taking care of a catheter or colostomy bag or changing a disposable incontinence product.	15–45 minutes
	
Taking in food by any method. Extra time may be allowed for preparing a special diet.	30 minutes per meal
Delegated Medical Monitoring and Activities	
Non-skilled medical tasks that are delegated to the aide by the RN, in accordance with Florida laws and practice acts. The tasks include, but are not limited to, assisting recipient with pre-poured medications, monitoring vital signs, and measurement of intake/output.	15–30 minutes day for all monitoring tasks performed

PC Policy at 1, 3 – 5.

17. Petitioner requested an additional twenty-eight (28) hours per week of personal care services. *See supra* ¶ 5. The additional personal care services were denied based on medical necessity. *See supra* ¶ 5, 6. Respondent explained that Petitioner’s request was not medically necessary based on the information provided but did not specify which of the medical necessity criteria Petitioner’s request failed to meet. *See supra* ¶ 5.

18. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: (a) are determined medically necessary, as defined in the LTC Policy; (b) do not duplicate another

service; and (c) meet the criteria as specified in the LTC Policy. *See supra* ¶ 13. Further, in order to receive LTC services, services must be documented on an individual plan of care based upon a comprehensive needs assessment. *Id.* The comprehensive assessment includes the completion of the 701-B Comprehensive Assessment and the LTC Supplemental Assessment. *Id.*

19. The evidence presented reflects that Respondent’s denial of an additional twenty-eight (28) hours per week of personal care services is warranted under the circumstances of this case. 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* ¶ 13. The record reflects that Petitioner lives in a private residence with [REDACTED], [REDACTED]. *See supra* ¶ 2, 5, 6, and 8. With regard to ADLs, Petitioner needs total assistance (cannot do at all) with [REDACTED], [REDACTED]; needs assistance (but not total help) with [REDACTED]; and uses an [REDACTED] [REDACTED]. *See supra* ¶ 3. The 701B Assessment states that Petitioner always has assistance with [REDACTED], [REDACTED] [REDACTED], and has assistance most of the time with [REDACTED]. *See supra* ¶ 3. Regarding IADLs, Petitioner needs total assistance (cannot do at all) with [REDACTED] [REDACTED] [REDACTED]; needs assistance (but not total help) with [REDACTED]; and needs supervision or prompting with [REDACTED] [REDACTED]. *See supra* ¶ 4. The 701B Assessment states that Petitioner always has assistance with [REDACTED], [REDACTED], [REDACTED], [REDACTED]

[REDACTED], and has assistance most of the time with [REDACTED]. See supra ¶ 4. Petitioner currently receives forty-six (46) hours per week of personal care services and ten (10) hours per week of homemaker services, for a total of fifty-six (56) hours of care services each week. See supra ¶ 9.

20. The PCS Policy, which is incorporated by reference in Fla. Admin. Code R. 59G-4.215, provides general guidance concerning the time allotted for personal care tasks. See supra ¶ 16.

[REDACTED] testified that [REDACTED] works from home and takes care of Petitioner after work, and that [REDACTED] needs assistance with cleaning and changing Petitioner. See supra ¶ 8. [REDACTED]

also testified that a home health aide is in the home for three (3) hours on Friday, performing homemaker services and personal care services. See supra ¶ 8. Neither Petitioner nor [REDACTED]

[REDACTED] provided a schedule of ADLs/IADLs and/or any estimate of the time it takes to complete each ADL/IADL task. Allotting thirty (30) minutes of time for each of Petitioner's ADLs ([REDACTED]

[REDACTED]) and taking into account

Petitioner's medical conditions, the current forty-six (46) hours of personal care services appear to be reasonable. Petitioner also has ten (10) hours of homemaker services per week, which

closely align with the documented IADL tasks that Petitioner needs assistance with. Dr.

Chenchugalla provided credible and persuasive testimony that the approved services are adequate to meet Petitioner's needs. In all, Petitioner did not demonstrate that the request for

additional hours were "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".

Accordingly, Petitioner failed to establish that the request for the additional twenty-eight (28) hours per week of personal care services was medically necessary.

21. [REDACTED] testified that the home health aide leaves at 4:00 p.m. and that [REDACTED] does not get off work until 5:30 p.m., leaving Petitioner alone in the interim. See supra ¶ 8. The request for additional personal care hours corresponds more with adult companion care services, which are defined as the “provision of non-medical care, supervision when necessary to protect the health, safety, and well-being of the enrollee, or social enrichment of a functionally impaired enrollee.” See supra ¶ 13.


22. [REDACTED] referred to a letter from Petitioner’s doctor that prescribes extended home health aide hours for Petitioner. See supra ¶ 8. However, the fact that a provider prescribed, recommended, or approved medical or allied care, goods, or services does not, itself, make such care, goods, or services medically necessary or a medical necessity or a covered service. See supra ¶ 15.

23. Therefore, upon consideration of the testimony provided, Petitioner’s Composite Exhibit 1, Respondent’s Composite Exhibit 1, and the applicable laws and policies, the undersigned concludes that Petitioner did not prove by a preponderance of the evidence that Respondent’s denial of an additional twenty-eight (28) hours per week of personal care services was incorrect.

DECISION

Respondent’s denial of an additional twenty-eight (28) hours per week of personal care services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s denial in this matter is **DENIED**.

DONE AND ORDERED this 21st day of November, 2023 in Tallahassee, Leon County, Florida.

 Kameisha Presley
23-FH2104
2023.11.21
08:18:19 -05'00'

KAMEISHA PRESLEY, Hearing Officer

Agency for Health Care Administration
Office of Fair Hearings
2727 Mahan Drive, Mail Stop # 11
Tallahassee, FL 32308-5407

NOTICE OF A RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

COPIES FURNISHED TO:

[REDACTED]
[REDACTED]
[REDACTED]

Humana Medical Plan, Inc.
GAMedicaidRightFax@humana.com

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com