



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

FILED

Oct 23, 2023, 9:11 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH2252

vs.

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

RESPONDENT.

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**FINAL ORDER OF DISMISSAL**

On September 7, 2023, [REDACTED] (“Petitioner’s Authorized Representative”) requested a Fair Hearing on behalf of Petitioner, due to reduction of ABA services. Pursuant to Florida Administrative Code Rule (“Fla. Admin. Code R.”) 59G-1.100(3), the Agency for Health Care Administration (“AHCA” or “Agency”) has jurisdiction and must provide a Fair Hearing for:

- (a) A [Fee-For-Service] recipient who makes a hearing request regarding:
  1. The reduction, suspension, or termination by the Agency of a previously authorized service,
  2. The denial, in whole or in part, of a requested service or supply by the Agency, or
  3. The failure of the Agency to provide a timely [Notice of Action] subsequent to the Agency’s failure to provide all medically necessary services to the recipient with reasonable promptness.
- (b) An enrollee who makes a hearing request regarding:
  1. A notice of plan appeal resolution indicating that the plan appeal did not result in the reversal of a prior denial of a new service, or the reduction, suspension, or termination of a previously authorized service, if timely challenged by the enrollee in accordance with the plan appeal procedures following the timely issuance of the plan’s [Notice of Adverse Benefit Determination] to the enrollee,
  2. The failure of the plan to adhere to notice and timing requirements applicable to plan appeals, or

3. The failure of the plan to timely notice the enrollee through a [Notice of Adverse Benefit Determination], subsequent to the plan's failure to provide medically necessary services requested by the enrollee to the enrollee with reasonable promptness.

(c) An enrollee who makes a hearing request regarding a disenrollment denial.

(d) A recipient who receives notification from the Agency pursuant to rule 59G-5.110, F.A.C., that a reimbursement request is denied in whole or in part.

(e) A recipient entitled to a fair hearing pursuant to section 409.285(2), F.S.

(f) The Agency need not grant a fair hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.

(g) A recipient who makes a hearing request regarding a denial or reduction to a medically necessary Florida Medicaid service and seeks corrective action.

Whenever the Agency reduces, suspends, terminates, or denies a service provided under Medicaid, the Agency or its representative, issues a Notice of Action, sometimes entitled a "Notice of Outcome" or "Notice of Disposition" ("Notice"). The Notice provides information related to the determination and explains how to request a Fair Hearing if the Recipient does not agree with the decision. On October 9, 2023, Respondent sent to the Office of Fair Hearings a Notice of Reconsideration Determination ("NRD") that reversed its reduction of applied behavior analysis services. As the Office of Fair Hearings does not have a Notice, that provides for the denial, reduction, or termination of a service, the Office of Fair Hearings does not have jurisdiction under Fla. Admin. Code R. 59G-1.100(3).

Because the reduction, suspension, termination, or denial of a service is a jurisdictional requirement for the Office of Fair Hearings, Fla. Admin. Code R. 59G-1.100(9)(b)(1) authorizes a Hearing Officer to deny or dismiss a request for a Fair Hearing if the Office of Fair Hearings lacks jurisdiction over the subject matter of the Fair Hearing request.

On October 10, 2023, the undersigned issued an Order to Show Cause ("Order") why the Fair Hearing request should not be dismissed for failure to comply with the Office of Fair Hearing's jurisdictional requirements under Fla. Admin. Code R. 59G-1.100(3). The Order notified


Petitioner that failure comply with the rule requirement on or before October 20, 2023, would result in dismissal of the case. On October 16, 2023, Petitioner's Authorized Representative sent an e-mail to the Office of Fair Hearings, however the response to did not offer explanation to show cause why the request for Fair Hearing should not be dismissed for failure to comply with the Office of Fair Hearing's jurisdictional requirements.

Based on the foregoing,

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

This case is dismissed without prejudice and is now closed.

**DONE and ORDERED** this 23rd day of October, 2023 in Tallahassee, Leon County, Florida.

 Joseph Mabry  
23-FH2252  
2023.10.23  
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**JOSEPH MABRY, Hearing Officer**  
**Agency for Health Care Administration**  
**Office of Fair Hearings**  
**2727 Mahan Drive, Mail Stop # 11**  
**Tallahassee, FL 32308-5407**

**NOTICE OF A RIGHT TO JUDICIAL REVIEW**

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

**COPIES FURNISHED TO:**





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