



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

FILED

Apr 22, 2024, 9:17 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH2858

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened telephonic Fair Hearings on the instant case on January 16, 2024, at 10:30 a.m., February 12, 2024, at 1:00 p.m. and March 21, 2024, at 11:30 a.m. Eastern Standard Time ("EST").

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Marielisa Amador and Sandra Durden
Medical/Health Care Program Analyst
Agency for Health Care Administration

Linda Latson
Registered Nurse Fair Hearing Liaison
Agency for Health Care Administration

STATEMENT OF ISSUE

The issue is whether Respondent proved by a preponderance of the evidence that Respondent's decision to terminate Petitioner's Behavior Analysis ("BA" or "ABA") services was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. Petitioner's Authorized Representative and [REDACTED], [REDACTED] ("[REDACTED]"), appeared on behalf of Petitioner. [REDACTED] ("[REDACTED]"), [REDACTED] ("[REDACTED]"), [REDACTED] ("[REDACTED]") of [REDACTED] [REDACTED] attended as witnesses for Petitioner at the February and March hearings. Issac Lau attended the February hearing as an observer.

Linda Latson ("Ms. Latson"), Registered Nurse Specialist, Fair Hearing Liaison, and Sandra Durden ("Ms. Durden") Medicare Program Analyst for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared on behalf of Respondent. Dr. Cathy Hurley ("Dr. Hurley"), Board Certified Behavior Analyst and Director of Clinical Operations for eQHealth Solutions Inc. ("eQHealth"), appeared as a witness for Respondent.

Petitioner sent to the Office of Fair Hearings and Respondent a two (2) page email and a two hundred and twenty-six (226) page evidence packet. The two (2) page email is identified in the Office of Fair hearings document management system as file title "23-FH2858 Email Correspondence (2).pdf." The two hundred and twenty-six (226) page evidence packet is identified in the Office of Fair Hearings document management system as file title:" 23-FH2858 Evidence.pdf." Absent an objection from respondent, the undersigned admitted the two (2) page e-mail as Petitioner's Composite Exhibit 1 (PCE 1") and the two hundred- and twenty-six-page evidence packet as Petitioner's Composite Exhibit 2 ("PCE 2").

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a two hundred and seventy-eight (278)-page evidence packet and a forty-nine (49)-page evidence packet. The two hundred and seventy-eight (278)-page evidence packet appears in the Office of

day to [REDACTED] per day; for [REDACTED], Petitioner has decreased from [REDACTED] incidents per day; for [REDACTED], Petitioner has decreased from [REDACTED] incident per day; for [REDACTED], Petitioner has decreased from [REDACTED] incidents per day. Baseline data is given for [REDACTED] at [REDACTED] per week (observed and data collected by Petitioner's [REDACTED]), but no current data is available in the plan. *Id.* 52- 80.

4. The Treatment Plan is targeting the following skills to increase: [REDACTED]; [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED].

5. On August 10, 2023, a Request for Additional Information was submitted to the Provider which stated the following in pertinent part:

Provider,
According to the Florida Medicaid State Plan (Appendix 9.2.c), assessment results must be present in the plan. This request cannot be reviewed until baseline data are submitted based on the results of your assessment. You were authorized units to complete an assessment and collect baseline data. Please submit all baseline data and individual graphs for skill acquisition goals and maladaptive behaviors that were observed/measured (not parent report/collected, estimate or extrapolated weekly average) during the assessment. Additionally, The definitions do not conform to the Florida Behavior Analysis Services Coverage Policy. According to (the Florida Behavior Analysis Services Coverage Policy, page 6, 9.2.i), the behavioral definitions must be clear, complete, objective and free of unobservable intentional states. The behaviors should have clear boundaries, definite on-sets and off-sets, should not overlap with other target behaviors definitions, and not be a listing of behaviors that the recipient does not engaging in. The definitions of illegal activities requires your review. Further, According to the Florida Medicaid State Plan (Appendix 9.3.b), the data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan. The recommendations for procedural modifications include: additions/changes to treatment plan to impact behaviors targeted for reduction. Procedural modifications should include one or more of the following: antecedent

manipulation modifications, modifications of prompting procedures used in acquisition, modifications in consequence-based strategies-- ones that either reduce maladaptive behavior or reinforce replacement behavior (e.g., manipulation of reinforcement schedules, switch to a different decelerative procedure), or if lack of progress was due to therapist error (e.g., poor data collection or poor training on intervention methods), how you will address human error.

Id. at 50.

6. Petitioner requested continuation of BA services; specifically, 3,120 units of code 97153; 832 units of code 97155; and 208 units of code 97156. *Id.* at 24. In a Notice of Outcome (“NOO”), dated August 22, 2023, Respondent terminated Petitioner’s ABA services. The NOO explained the basis for the termination as follows:

[T]he requested services are not medically necessary under the following standard(s):

Individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient’s needs.
Consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational.

The NOO further provided:

PR Clinical Rationale-Denial: The current information submitted does not meet standards of care the field of behavior analysis. According to the Florida Medicaid State Plan (Appendix 9.2.c), assessment results must be present in the plan. The provider has included baseline data and graphs for skill acquisition goals and maladaptive behaviors that were based on parent report (pg 18 original BASP; pg 20 updated) , extrapolated average and/or sourced from indirect interview) ; and were not directly observed or measured as standards of care within the field of behavior analysis. Additionally, According to the Florida Medicaid State Plan (Appendix 9.3.b), the data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan. The recommendations for procedural modifications include: additions/changes to treatment plan to impact behaviors targeted for reduction. Procedural modifications should include one or more of the

following: antecedent manipulation modifications, modifications of prompting procedures used in acquisition, modifications in consequence-based strategies-- ones that either reduce maladaptive behavior or reinforce replacement behavior (e.g., manipulation of reinforcement schedules, switch to a different decelerative procedure), or if lack of progress was due to therapist error (e.g., poor data collection or poor training on intervention methods), how you will address human error.

The provider has not addressed the lack of progress during the last observation period and did not sufficiently amend the treatment plan in relation to the lack of progress. his request is denied.

...

Id. at 24-25

7. Petitioner requested reconsideration of the Respondent's decision. In a Notice of Reconsideration Determination ("NRD"), dated November 13, 2023, Respondent upheld its decision. *Id.* at 36. The NRD explained the basis for the decision as follows:

PR Recon Determination: At reconsideration all documents were carefully reviewed. According to the Florida Medicaid Behavior Analysis Services Coverage Policy (page 6, 9.0.c-d) the recipient of ABA therapy services must engage in maladaptive behavior that interferes with the recipient's daily functioning for which ABA therapy is medically necessary. There is no submitted evidence that the recipient is engaging in behaviors for which ABA therapy is medically necessary under Florida Medicaid Rules, or the proper treatment modality given the recipient's diagnosis and presenting maladaptive behaviors. The [REDACTED] behaviors are out of scope of ABA practice. Additionally, the other targeted maladaptive behaviors show increases and variability throughout the authorization. According to the Florida Medicaid State Plan (Appendix 9.3.b), the data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan. The recommendations for procedural modifications include: additions/changes to treatment plan to impact behaviors targeted for reduction.

Procedural modifications should include one or more of the following: antecedent manipulation modifications, modifications of prompting procedures used in acquisition, modifications in consequence-based strategies-- ones that either reduce maladaptive behavior or reinforce replacement behavior (e.g., manipulation of reinforcement schedules,

switch to a different decelerative procedure), or if lack of progress was due to therapist error (e.g., poor data collection or poor training on intervention methods), how the provider will address human error. The recommendations are insufficient to support continued care. This reconsideration request has been reviewed.

...

Id. at 36-37.

8. On November 9, 2023, Petitioner requested a Fair Hearing to challenge the termination of ABA services. *Id.* at 8. On November 27, 2023, the undersigned issued an Order Scheduling Fair Hearing by Telephone and Prehearing Instructions, setting the hearing for January 16, 2024, at 10:30 a.m. EST. At the January 16, 2024, hearing, Respondent presented a portion of their case. A continuance was granted pursuant to stipulation of the parties. The next hearing was scheduled for February 12, 2024. At this hearing, Petitioner's witness referred to an evidence packet that had not been received by Respondent or the Office of Fair Hearings. Upon investigation, it was discovered that an encryption error resulted in the document not being uploaded to the file. Petitioner re-submitted the evidence packet on February 14, 2024. The hearing was then continued to March 21, 2024.

9. Dr. Hurley is a Board-Certified Behavior Analyst for eQHealth. Dr. Hurley testified to the following at the Fair Hearings:

- a. Petitioner is [REDACTED] with [REDACTED], [REDACTED] and [REDACTED].
- b. Provider was asked to submit graphs of directly observed behavior data for maladaptive, replace and parent training skills. RCE 1 at 19.
- c. The first denial was issued due to the data being based upon parent reports, not directly observed behavior analysts as required by standard of care in field of BA. Additionally, the first plan that was pended included data in the plan that does not

meet standards of care within the field of behavior analysis as it does not include: assessment results, descriptions of maladaptive behaviors, the clinical documentation, functional consequences of maladaptive behavior, hypothesis as to the functional summary and recommendations. RCE 2 at 45. Baseline data and graphs in the plan submitted for goals and maladaptive behaviors are based upon parent reports, extrapolated average or indirect interview. They were not directly observed.

- d. The plan is targeting behaviors for which ABA is not proper treatment modality. Petitioner's reported illegal behaviors are outside the scope of ABA and medical necessity.
- e. [REDACTED] targeted in the plan is hard to measure and track.
- f. Discussion of the differences between legal and illegal behavior is beyond the scope of ABA. Trauma response is also beyond the scope of ABA.
- g. Additionally, there has not been sufficient progress in this recent authorization period and the graphs show variability.

10. [REDACTED], witness for Petitioner testified as follows:

- a. ABA therapy is an appropriate treatment for [REDACTED] [REDACTED].
- b. Empirical research supports ABA therapy as appropriate for these behaviors.
- c. A multi-disciplinary approach to this complicated case is recommended to avoid [REDACTED].

- d. The school district has not cooperated in the necessary multi-disciplinary approach.
- e. The child lacks sufficient social skills to avoid peer pressure to engage in [REDACTED].
- f. The child's disabilities add to the difficulty of treating these behaviors as it is difficult to discern the origin of the behavior, specifically whether the medical diagnoses or the trauma is the root cause of the maladaptive behavior.
- g. Petitioner's plan has been altered since the denial to [REDACTED].
- h. Provider has no plan to re-integrate treatment of [REDACTED].
- i. During the continuation hours that have been applied, the [REDACTED] have not been targeted.

11. [REDACTED] testified as follows:

- a. [REDACTED] is the child's BCBA.
- b. The child can advocate for [REDACTED].
- c. Plans have been altered to accommodate the child's changing needs. Petitioner sends [REDACTED].
- d. The child perceives [REDACTED].

12. [REDACTED] testified as follows:

- a. The application of ABA is a widespread approach and a technology that can be used in a variety of situations.
- b. Many articles have been published that discuss ABA interventions and assessments for [REDACTED].
- c. However, solely using ABA is not the preferred approach though therapeutic approaches have not been effective in this child's case.

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 section 409.285(2), Florida Statutes (2019). This order is the final administrative decision of AHCA under section 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 Respondent terminated a previously approved service, Fla. Admin. Code R. 59G-1.100(17)(g) assigns the burden of proof to the 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.)

16. The Florida Medicaid Behavior Analysis Services Coverage Policy (October 2017) ("BA Policy"), incorporated by reference in Fla. Admin. Code. R. 59G-4.125, governs BA services available under Florida Medicaid. The BA Policy provides as follows:

1.0 Introduction

Behavior analysis (BA) services are highly structured interventions, strategies, and approaches provided to decrease maladaptive behaviors and increase or reinforce appropriate behaviors.

...

1.4.5 Medically Necessary/Medical Necessity

As defined in Rule 59G-1.010, F.A.C.

...

4.0 Coverage Information

4.1 General Criteria

Florida Medicaid covers services that meet all of the following:

- Are determined medically necessary
- Do not duplicate another service
- Meet the criteria as specified in this policy

4.2 Specific Criteria

Florida Medicaid covers the following BA services in accordance with the applicable Florida Medicaid fee schedule(s), or as specified in this policy:

4.2.1 Behavior Assessment

One per fiscal year, per recipient, when completed within 30 days of the start of the assessment.

4.2.2 Behavior Analysis

Up to 40 hours per week, per recipient, consisting of services identified on the recipient's behavior plan in order to reduce maladaptive behaviors and to restore the recipient to his or her best functional level. Services include:

- Implementing behavior analysis interventions, and monitoring and assessing the recipient's progress towards goals in the behavior plan
- Behavior analysis interventions, for example, discrete trial teaching, task analysis training, differential reinforcement, non-contingent reinforcement, conducting task analyses of complex responses, and teaching using chaining, prompting, fading, shaping, response cost, and extinction
- Training the recipient's family, caregiver(s), and other involved persons on the implementation of the behavior plan and intervention strategies (the recipient must be present when clinically appropriate)

...

4.3 Early and Periodic Screening, Diagnosis, and Treatment

As required by federal law, Florida Medicaid provides services to eligible recipients under the age of 21 years, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. Included are diagnostic services, treatment, equipment, supplies, and other measures described in sectioned 1905(a) of the Social Security Act, codified in Title 42 of the United States Code 1396d(a). As such, services for recipients under the age of 21 years exceeding the coverage described within this policy or the associated fee schedule may be approved, if medically necessary. For more information, please refer to Florida Medicaid's General Policies on authorization requirements.

17. Appendix 9.0 of the BA Policy provides Review Criteria for Behavior Analysis Services.

These Review Criteria state as follows:

Review Criteria for Behavior Analysis Services

Behavior analysis (BA) services are considered as either the treatment of choice or as an adjunct treatment modality for a variety of conditions and disorders where maladaptive behaviors are part of the recipient’s clinical presentation, including behavioral manifestations of diagnoses such as Autism Spectrum Disorder and other behavioral health conditions.

Critical Elements Necessary for ANY Type of Behavior Analysis Service:

The following critical elements **MUST** be satisfied to qualify for BA services:

- a. Eligibility – The recipient must meet all criteria for BA services as outlined in the Behavior Analysis Services Coverage Policy, Rule 59G-4.125, F.A.C.
- b. Medical necessity – The recipient must meet medical necessity criteria as outlined in Rule 59G-1.010, F.A.C.
- c. The recipient currently engages in maladaptive behaviors
- d. These maladaptive behaviors interfere with the recipient’s daily functioning

1. Criteria for Initial Behavior Analysis Assessment - BOTH of the following **MUST** be satisfied:

- a. **ALL** critical elements are met
- b. Provide submits a valid written physician’s order as stipulated in the Behavior Analysis Services Coverage Policy, Rule 59G-4.125, F.A.C.

2. Criteria for Behavior Analysis Services and Reassessments – ALL of the following **MUST** be satisfied:

- a. **ALL** critical elements are met
- b. An assessment or, if applicable, a reassessment, authored by a lead analyst, is provided. An assessment of the maladaptive behavior(s) is a necessary element of the process of identifying the frequency and magnitude of the behaviors as well as the variables associated with the occurrence of the maladaptive behavior(s). This helps in defining what are the functional consequences of the problem behavior(s) so that an adequate behavior plan can be implemented. This (re)assessment **MUST** include, at a minimum, **ALL** of the following:
 - i. A clear operational description of the maladaptive behavior(s)
 - ...
- c. A behavior plan authored or updated by a lead analyst. The behavior plan is the cornerstone of the delivery of behavior analysis services and

it is based on the information obtained in the assessment. It proposes specific interventions to reduce or eliminate the maladaptive behavior. These interventions take into consideration the variables, both present before the behavior, as well as after the behavior, that influence the occurrence of the maladaptive behavior(s). This plan also includes replacement appropriate behaviors for the recipient to engage in instead of the maladaptive behaviors in order to obtain the same function. The plan must be detailed enough to warrant the requested services and include mechanisms to monitor its effectiveness. This **MUST** include, at a minimum, **ALL** of the following:

- i. Observable and measurable descriptions of the maladaptive behavior(s)
- ii. Identified function of the maladaptive behavior(s) behavior as a result of the assessment or reassessment conducted
- iii. Goals and strategies for changing the maladaptive behavior(s)
- iv. Written detailed description of when, where, and how often these goals will be addressed and proposed strategies will be implemented
- v. System for monitoring and evaluating the effectiveness of the plan
- vi. Safety and crisis plan, if applicable
- vii. Summary and recommendations
- viii. Discharge criteria
- ix. Transition plan (if applicable)

NOTE: Although the assessment and behavior plan were addressed separately in section 2, both of them can be submitted as a single document.

3. Criteria for Continuation of Treatment at the Present Level and/or Using Current Methods: Providers must ensure that ALL of the following criteria are met to request continuation of treatments at the present level or using the current methods. If criteria for 3a is met, but criteria for 3b and/or 3c are not met, then a reduction of the treatment level and/or change of treatment methods may be warranted.

- a. ALL criteria listed in 2a, 2b, and 2c regarding critical elements, assessment or reassessment, and behavior plan, are met.
- b. The data provided must show evidence that the frequency of the maladaptive behavior(s) has decreased since the last review and, if not, that there is a modification of the behavior plan.
- c. The level of functional impairment justifies continuation of BA services. The reviewer utilizes the information provided below as a guide as it relates to the level of functional impairment as expressed through the following behaviors:
 - i. Safety – aggression, self-injury, property destruction, elopement

- ii. Communication – problems with expressive/receptive language, poor understanding or use of non-verbal communications, stereotyped, repetitive language
- iii. Self-stimulating, abnormal, inflexible, or intense preoccupations
- iv. Self-care – difficulty recognizing risks or danger, grooming, eating, or toileting
- v. Other – behaviors not identified above

18. States must provide Early and Periodic Screening, Diagnostic, and Treatment (“EPSDT”) services to Medicaid-eligible children under age 21 when requested under the Medicaid state plan. *See* 42 U.S.C. § 1396a(a)(43); 42 U.S.C. § 1396d(a)(4). According to 42 U.S.C. § 1396d(r)(5), EPSDT services mean, in relevant part, the following items and services:

Such other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illness and conditions discovered by the screen services, whether or not such services are covered under the state plan.

19. Petitioner is under age 21, and therefore EPSDT applies to his request for services. However, a state may place medical necessity limitations on EPSDT services. *See* 42 C.F.R. §§ 440.230(a), (b), (d). Fla. Stat. § 409.905(2) limits EPSDT services with a medical necessity standard:

The [Agency] shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems and conditions, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

20. The 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.

21. The Florida Medicaid Authorization Requirements Policy (“Authorization Policy”), incorporated by reference in Fla. Admin. Code R. 59G-1.053, provides as follows:

3.2.1 Continued Authorization Requests

The QIO shall not deny or reduce the amount, frequency, or duration of a service that is already being provided, unless:

- The reduction is to correct for factual error or omissions in prior certifications.
- There is a documented improvement in the recipient’s medical condition.
- There is a documented change in the recipient’s circumstances.
- The reviewing physician determines the recipient will not gain any additional benefit by continuing services at the current level.

22. In the instant case, Respondent terminated Petitioner’s ABA services. *See* ¶ 6. In the NOO dated August 22, 2023, Respondent explained that continuing services at the prior level was not medically necessary, specifically, that it did not meet the requirements that services must be “consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational”, as well as “individualized, specific,

and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient's needs." *Id.*

23. As provided by the EPSDT requirements, the recipient must meet the medical necessity criteria as outlined in Fla. Admin. Code R. 59G-1.010. As provided in section 2.83 of the Definitions Policy, two components of medical necessity are that services must be "consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational", as well as "individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient's needs," and finally, "[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." *See* ¶ 20.

24. As shown by the record, "there are behaviors listed for decrease and goals for increase that do not meet medical necessity criteria." *Id.* Furthermore, Respondent explained that "the provider was requested to review and amend the plan and the provider did not satisfy the request." *See* ¶ 7.

25. During her testimony, Dr. Hurley noted that targeting the [REDACTED] [REDACTED] was not medically necessary under ABA criteria. *See* ¶ 9. Specifically, ABA for these maladaptive behaviors is not "[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." *See* ¶ 9, 18. Dr. Hurley noted that the plan should not include targeting of illegal behavior or trauma and trauma response as it is beyond the scope of ABA. *See* ¶ 9.

26. As shown by the record, there are many insufficiencies within the current treatment plan. Dr. Hurley identified several components which do not meet medical necessity and do not comply with the Behavior Analysis Services Coverage Policy. See ¶ 9. Dr. Hurley also stated that the treatment plan did not meet the medical necessity criterion that services be individualized to Petitioner. *Id*

27. As QIO for the Agency, eQHealth is authorized to terminate services when “the reviewing physician determines the recipient will not gain any additional benefit by continuing services at the current level.” See ¶ 21. As discussed, and according to an expert in the field of behavior analysis, the treatment plan in this case does not meet medical necessity criteria, nor does it satisfy specifications in the Behavior Analysis Services Coverage Policy. See ¶ 16.

28. Upon consideration of the testimony provided, evidence submitted, and applicable polices, the undersigned concludes that Respondent proved by a preponderance of the evidence that the ABA services at issue do not meet medical necessity criteria. Looking at all the evidence relevant to the particular needs of Petitioner, Respondent has demonstrated that the previously authorized services, based on the treatment plan at issue in this case, are not necessary to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, Respondent proved by a preponderance of the evidence that Respondent’s termination of ABA services was correct.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

Respondent’s termination of ABA services is **AFFIRMED**. Petitioner’s appeal based on Respondent’s termination is **DENIED**.

DONE and **ORDERED** this the 22nd of April 2024, in Tallahassee, Leon County, Florida.

Lynne Ringers

Lynne Ringers

23-FH2858

2024.04.22

08:31:56 -04'00'

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:

████████████████████
████████████████████
████████████████████

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com