



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

FILED

Dec 28, 2023, 11:43 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH2904

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

RESPONDENT.

_____ /

FINAL ORDER OF DISMISSAL

The Office of Fair Hearings received a request for a Fair Hearing from Petitioner on November 14, 2023. Rule 59G-1.100(8)(c), Florida Administrative Code, requires that “a Fair Hearing request must be made within 90 days of the date of the required time to provide a NOA [Notice of Action], or such other time specified by law.” Rule 59G-1.100(9)(b)(3), Florida Administrative Code, authorizes a Hearing Officer to deny or dismiss a Fair Hearing request that is untimely.

In the instant case, the Notice of Reconsideration Determination is dated July 25, 2023. Petitioner requested a Fair Hearing on November 14, 2023, which is more than 90 days from July 25, 2023. Therefore, it appears that the request is untimely.

On December 7, 2023, the undersigned issued an Order to Show Cause (“Order”) why the Fair Hearing request should not be dismissed for failure to timely file the request. The Order explained that Rule 59G-1.100(8)(c), Florida Administrative Code, requires that “[a] fair hearing request must be made within 90 days of the date of the required time to provide a NOA [Notice

of Action], or such other time specified by law.” The Order notified Petitioner that failure to show cause by December 18, 2023, would result in dismissal of the case.

Rule 59G-1.00(2)(n) defines Good Cause as “[a]n incident or occurrence which is beyond the control of the movant and which prevents compliance.” Examples of good cause include a disabling accident, illness, or declared emergency; or other similar circumstances beyond the Recipient’s control. *See Fla. Admin. Code R. 59G-1.100(14)(b)*. On December 12, 2023, the Office of Fair Hearings received an email from Petitioner’s Authorized Representative in response to the Order that states as follows:

I do not understand why the first copy of the authorized representative paperwork wasn’t received back in August. I have several witnesses that saw the letter being signed and returned through the US postal service. By the time I called to ask why it was taking so long they said they had closed the case because they never received it and I had to start over. I thought I was waiting to be given a date for the fair hearing.

Here, the Petitioner’s explanation did not demonstrate an “incident or occurrence which is beyond the control of the movant.” Accordingly, Petitioner did not show good cause for failure to timely file the request.

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 28th day of December 2023 in Tallahassee, Leon County, Florida.



Kimberly Roche
23-FH2904
2023.12.28 08:13:01
-05'00'

KIMBERLY ROCHE, 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.

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AHCA Medicaid Hearing Unit
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