



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

**FILED**

Mar 20, 2024, 8:42 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 23-FH3205

Plan ID No.: [REDACTED]

vs.

CHILDREN'S MEDICAL SERVICES,

RESPONDENT.

\_\_\_\_\_ /

**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on February 8, 2024, at 10:02 a.m. Eastern Standard Time ("EST").

**APPEARANCES**

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Chantal Pierre  
Clinical Appeals Coordinator  
Sunshine State Health Plan, Inc.

**STATEMENT OF ISSUE**

The issue is whether Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's home health services (private duty nursing) was correct.

**PRELIMINARY STATEMENT**

All parties appeared telephonically. Petitioner's Authorized Representative and [REDACTED], [REDACTED] ("[REDACTED]"), appeared for Fair Hearing to provide testimony on behalf of Petitioner.

Chantal Pierre ("Ms. Pierre"), Clinical Appeals Coordinator for Sunshine State Health Plan, Inc. ("Sunshine") appeared for Fair Hearing on behalf of Respondent. Andrew Metinko, M.D. ("Dr. Metinko"), Medical Director for Sunshine, appeared for Fair Hearing as a witness for Respondent. Amy Bialczak, Case Manager for Sunshine, appeared for Fair Hearing as a witness for Respondent. Lori Graham, Supervisor for Sunshine, appeared for Fair Hearing as a witness for Respondent.

The following individuals appeared for Fair Hearing as observers: Theresa Sawyer, Senior Attorney for Florida Department of Health; Joann White, Ombudsman for Florida Department of Health; and Lee Ann Williams, Medical/Health Care Program Analyst and Fair Hearing Liaison for the Agency for Health Care Administration ("Agency" or "AHCA").

Petitioner did not introduce any exhibits at the hearing.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred and twenty-four (124)-page evidence packet. The one hundred and twenty-four (124)-page packet appears in the Office of Fair Hearings' document management system as file titles "MFH packet [Petitioner].pdf." Absent an objection from the Petitioner, the undersigned admitted the one hundred and twenty-four (124)-page packet into evidence as Respondent's Composite Exhibit 1 ("RCE 1").

#### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of Children’s Medical Services (“CMS”) Managed Medical Assistance (“MMA”) program. See RCE 1 at page 2. CMS is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida. *Id.*

2. Petitioner is [REDACTED] old. *Id.* at 14. Petitioner lives at home in the community with [REDACTED], [REDACTED], and [REDACTED]. *Id.* at 10, 31. Petitioner’s medical history includes

[REDACTED]  
[REDACTED]. *Id.* at

14. Petitioner has [REDACTED]. *Id.* at 14-

16. Petitioner requires [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]. *Id.* at 16. Petitioner receives physical therapy

(“PT”) three times per week, occupational therapy (“OT”) twice per week, and speech therapy (“ST”) twice per week, and respiratory therapy (“RT”) twice per week. *Id.* at 18.

3. Petitioner is prescribed the following medications: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *Id.* at 15, 18.

4. Petitioner requested recertification of private duty nursing services for the period of September 10, 2023, to November 8, 2023, specifically, 24 hours per day, 7 days per week, or a total of 168 hours per week. *Id.* at 14. In a Notice of Adverse Determination (“NABD”), dated October 17, 2023, Respondent reduced Petitioner’s services to 60 hours per week. *Id.* at 4-8. The NABD explained the basis for the reduction as follows:

- ✓ We determined that your requested services are **not medically necessary** because the services do not meet the reason(s) checked below: (See Rule 59G-1.010)
- ...
- ✓ Must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in excess of the patient’s needs.

The facts that we used to make our decision are: Sunshine Health Policy on Review of Private Duty Nursing Requests, FL.UM.26.00. This decision was also made with regards to EPSDT (Early and Periodic Screening, Diagnostic and Treatment).

Rationale: We received the request to approve private duty nursing services. Private duty nursing services are medical care given in the home by a trained and licensed nurse. The request was for 168 hours per week. The request is partially approved. We are approving 60 hours per week based on medical need. We are denying the extra 108 hours per week. The medical notes that we received do not show that your child needs a machine that helps [REDACTED] breathe. Your child does not need many medicines given in the veins. Your child has a feeding tube, but there is no note stating [REDACTED] needs constant feedings. Please discuss other options with your child's care manager and/or primary care doctor. A care manager is a trained worker who can help you set up services.

*Id.* at 4-5.

5. On October 25, 2023, Petitioner requested a plan appeal for the reduction of private duty nursing services. *Id.* at 10-11, 34-36. In a Notice of Plan Appeal Resolution (“NPAR”) dated October 26, 2023, Respondent approved Petitioner for 16 hours per day, 7 days per week, and denied the remaining hours. *Id.* at 34-36. The NPAR explained as follows:

...  
The facts that we used to make our decision are: The reconsideration request for the denial of PDN 24/7 is partially denied and partially approved. Approval is granted for 16 hours 7 days a week for one month.  
Member is [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]. Reconsideration of this request can be done when updated , complete clinical information is submitted for review. . Please discuss other options with your child's care manager and/or primary care pediatrician. The reasons for this decision are based on a set of standards. This included Criteria: Review of Private Duty Nursing Requests, POLICY ID: FL.UM.26.00. This decision was made with regards to EPSDT.

*Id.* at 34-35.

6. On December 21, 2023, Petitioner requested a Fair Hearing to challenge the reduction of private duty nursing services. On January 17, 2024, undersigned issued an Order Scheduling Fair Hearing and Prehearing Instructions (“Scheduling Order”), setting the hearing for February 8, 2024, at 10:00 a.m. EST.

7. As of the date of the Fair Hearing, Petitioner is authorized to receive private duty nursing services for sixteen (16) hours per day, seven (7) days per week, or alternatively, one hundred twelve (112) hours per week. *Id.* at 34-35.

8. Dr. Metinko is a Medical Director for Sunshine. Dr. Metinko testified to the following:

- a. Three CMS reviewers took into account Petitioner’s multiple medical conditions, plan of care, and administration of medications, needs for assistance and caregiver’s needs in making their determination. See ¶ 2-5, 7.
  - b. Petitioner previously received twenty-four (24)-hour care as reflective of [REDACTED] complications in younger years with [REDACTED]  
[REDACTED]
  - c. Dr. Metinko contended that of Petitioner’s multiple medical issues, the remaining conditions of continual concern are [REDACTED]  
[REDACTED].
  - d. Petitioner’s current [REDACTED]  
[REDACTED] *Id.* at 46, 58.
  - e. Petitioner experiences [REDACTED]  
[REDACTED]  
[REDACTED]
  - f. Petitioner’s nurse attends school with [REDACTED] to provide [REDACTED].
  - g. In review of [REDACTED]’s reconsideration letter, CMS reviewers agreed that there is some overlap on tasks a parent is expected to provide such as [REDACTED]  
[REDACTED] See RCE 1 at 10-11 and ¶ 19.
  - h. Overall, CMS’s position is that Petitioner’s current plan of care for 112 hours should be sufficient for Petitioner’s needs.
9. [REDACTED] is Petitioner’s [REDACTED]. [REDACTED] testified to the following:
- a. Petitioner is [REDACTED]. See ¶ 2-3.



provided through a home health nurse visit. Private duty nursing is furnished for the purposes of performing skilled interventions or monitoring the effects of prescribed treatment.

...

#### **Limitations and Exclusions:**

...

- Private duty nursing is not covered for respite care. Examples are parent or legal guardian recreation, socialization, and volunteer activities or periodic relief to attend to personal matters unrelated to the medical necessary care of the member.
- Private duty nursing services can be considered for the medically complex member at school if both of the following are met:
  - The member's primary care physician provides documentation that he/she considers going to school a viable option given the member's medical status, and
  - The school system is not currently providing the intensity of nursing care required by the child, and private duty nursing services would enable the member to attend school (with documentation of such).
- Private duty nursing services are not covered in the following locations:
  - Hospitals
  - Nursing facilities
  - Intermediate care facilities for individuals with intellectual disabilities
  - Physician offices
  - Clinics
  - Prescribed pediatric extended care centers
- There are times during the day when skilled interventions are not required for a member receiving private duty nursing services. **In these cases, parents or legal guardians must provide assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) for the member, to the fullest extent possible.** If parents or legal guardians need training to safely perform these ADL and IADL tasks, the home health provider must provide training and document the methods used to train the parent or legal guardian in the member's medical record. If the parents or legal guardians are willing and capable of providing more ADL and IADL care, private duty nursing can be authorized to supplement the care provided by those parents or legal guardians.
- Private duty nursing services can be approved for a member whose parent or legal guardian is not available or able to provide ADL or IADL care. Documentation must be provided with a request for private duty nursing services in order to substantiate a parent or legal guardian's inability to participate in the care of the member (i.e., work or school schedules and medical documentation). If a parent or legal guardian is unable to provide a

work schedule, a statement attesting to the work schedule must be presented to Sunshine Health when making the request.

- For MMA, CMS, SMI and Child Welfare members, a home health agency can allow payment for up to 40 hours per week of private duty nursing services provided by a parent or legal guardian if that parent or legal guardian has a valid license as a RN or LPN in the state of Florida and is employed by a contracted home health agency. Parents or legal guardians must participate in providing ADL and IADL care to the fullest extent possible and are expected to continue to provide non-reimbursed care as the primary parent or legal guardian.
- . . .
- Approval is not provided for additional private duty nursing hours for the member so that the member's parent or legal guardian who is providing private duty nursing for the member can also work outside the home or for respite. The parent or legal guardian is not eligible to participate in this program if the required care cannot be provided because of a medical condition or disability of the parent or legal guardian.
- The absence of an available care giver does not make the requested services skilled care, and therefore is not criteria used for determining medical necessity of private duty nursing.
- Services that can be provided safely and effectively by a non-clinically trained person are not considered skilled when a non-skilled caregiver is not available.

See RCE 1 at 74, 77-80 (emphasis added).

#### **CONCLUSIONS OF LAW**

12. 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 (2022). This order is the final administrative decision of AHCA under section 409.285(2)(a).

13. This hearing was held as a *de novo* proceeding pursuant to Rule 59G-1.100(17)(b), Florida Administrative Code ("Fla. Admin. Code R.").

14. Because Respondent reduced 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.)

15. The Florida Medicaid Private Duty Nursing Services Coverage Policy (November 2016) (“PDN Policy”), incorporated by reference in Fla. Admin. Code R. 59G-4.261, governs private duty nursing services available under Florida Medicaid. The PDN Policy provides the following, in pertinent part:

**1.1 Description**

Florida Medicaid private duty nursing (PDN) services provide medically necessary skilled nursing to recipients whose medical condition, illness, or injury requires the care to be delivered in their home or in the community.

...

**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 Medically Necessary/Medical Necessity**

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

Note: Subparagraph (a)(5) of the medical necessity definition shall not be applied when determining the medical necessity of private duty nursing services. All other medical necessity criteria apply and must be met in order to receive reimbursement from Florida Medicaid

...

**4.0 Coverage Information**

**4.1 General Criteria**

Florida Medicaid reimburses for 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 reimburses for up to 24 hours of PDN services per day, per recipient, when the recipient meets all of the following criteria:

- Is under the care of a physician and has a physician’s order for PDN 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

...

#### **4.3 Early and Periodic Screening, Diagnostic, 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 section 1905(a) of the SSA, 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.

...

#### **5.0 Exclusion**

##### **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 POC
  - Babysitting
  - Certification of the POC by a physician
  - 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 as described in section 4.2.1)
  - Services provided in any of the following locations:
    - Hospitals
    - Intermediate care facilities 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

See PDN Policy at page 1-4.

16. 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.

17. Petitioner is under age 21, and therefore EPSDT applies to this 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.

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:

**2.83 Medically Necessary or Medical Necessity**

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.

See RCE 1 at 124.

19. The Agency’s Florida Medicaid Home Health Visit Services Coverage Policy (November 2016) (“Home Health Policy”) has been incorporated, by reference, into Rule 59G-4.130, F.A.C.

The Home Health Policy provides as follows:

**1.1 Description**

Florida Medicaid home health visits provide medically necessary skilled nursing and home health aide services to recipients whose medical condition, illness, or injury requires the care to be delivered in their home or in the community.

...

**4.0 Coverage Information**

**4.1 General Criteria**

Florida Medicaid reimburses for 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 reimburses for:

- Up to four intermittent home health visits, per day, for recipients under the age of 21 years and pregnant recipients age 21 years and older

- Up to three intermittent home health visits, per day, for non-pregnant recipients age 21 years and older

...

#### **4.2.2 Home Health Aide Visits for Recipients Under the Age of 21 Years**

Florida Medicaid reimburses for home health aide visits for recipients under the age of 21 years who have a medical condition or disability that substantially limits their ability to perform ADLs or IADLs.

##### **4.2.2.1 Parental Responsibility**

Florida Medicaid reimburses for home health aide visits rendered to a recipient whose parent or legal guardian is not able to provide ADL or IADL care, and to supplement care provided by parents and legal guardians. Parents and legal guardians must participate in providing care to the fullest extent possible. Providers must offer training to enable parents and legal guardians to provide care they can safely render without jeopardizing the health or safety of the recipient when needed.

See Home Health Policy at pages 1 and 3.

20. In the instant case, Petitioner requested continuation of private duty nursing services for 24 hours per day, 7 days per week, or a total of one hundred sixty-eight (168) hours per week. See ¶ 4. In the NABD, dated October 17, 2023, Respondent reduced Petitioner's services to a total of sixty (60) hours per week. See ¶ 4. Respondent cited the lack of medical necessity as the basis for their decision, specifically that the services must be "individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness under treatment, and not in excess of the patient's needs." See ¶ 4. In the NPAR dated October 26, 2023, Respondent authorized Petitioner to receive private duty nursing services for sixteen (16) hours per day, seven (7) days per week, or alternatively, one hundred twelve (112) hours per week. See ¶ 5. Respondent has the burden of proof to show by a preponderance of evidence that the Respondent's determination was correct. See ¶ 14.

21. The PDN Policy states that Florida Medicaid reimburses for services that meet all of the following: (1) are determined medically necessary; (2) do not duplicate another service; and (3)

meet the criteria specified in the policy. See ¶ 15. The Definitions Policy requires that the 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. The Home Health Policy specifies that home health visits provide medically necessary skilled nursing and home health aide services to recipients whose medical condition or illness requires the care to be delivered in their home or in the community. See ¶ 19.

22. Here, the record clearly shows that Petitioner requires skilled nursing assistance due to [REDACTED] medical conditions and functional limitations. See ¶ 2-3. As demonstrated in the record, Petitioner’s medical history includes [REDACTED]  
[REDACTED]  
[REDACTED]. See ¶ 2. Petitioner has [REDACTED]  
[REDACTED] and totally dependent for ADLs. See ¶ 2. Petitioner [REDACTED]  
[REDACTED]  
[REDACTED]. See ¶ 2. According to Dr. Metinko’s testimony, Respondent took into consideration Petitioner’s multiple medical conditions, plan of care, administration of medications, Petitioner’s needs, and [REDACTED] parent’s needs as part of their review for the recertification of private duty nursing services. See ¶ 8. Dr. Metinko opined that although Petitioner previously received twenty-four (24) hours of private duty nursing services in the past, most of Petitioner’s skilled nursing needs have diminished over time. See ¶ 8. Petitioner previously received twenty-four (24)-hour care as reflective of [REDACTED] complications in younger years with [REDACTED]

[REDACTED]. See ¶ 8. Dr. Metinko contended that of Petitioner's multiple medical issues, the remaining conditions of continual concern are [REDACTED].

See ¶ 8. Petitioner is prescribed various daily medications via [REDACTED].

[REDACTED]. See ¶ 2. Petitioner receives PT three times per week, OT twice per week, ST twice per week, and RT twice per week. See ¶ 2. To facilitate school attendance, Petitioner's nurse attends school with [REDACTED] to provide [REDACTED] skilled nursing needs. See ¶ 8.

23. Regarding private duty nursing services, Respondent's FL.UM.26 maintains that "parents or legal guardians must provide assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) for the member, to the fullest extent possible." See ¶ 11. Dr. Metinko stated that it is expected for the parent(s) to provide some care such as bolus feedings via G-Tube as needed for Petitioner's care. See ¶ 8. Petitioner lives at home with [REDACTED], [REDACTED], and [REDACTED]. See ¶ 2. [REDACTED] testified that [REDACTED] experiences much strain in providing care for both children, especially during nights when Petitioner is prone to having [REDACTED]. See ¶ 9. [REDACTED]'s typical work schedule is from 9 a.m. to 5:30 p.m., Monday through Friday, or forty (40) hours per week. See ¶ 10. [REDACTED] also asserted that [REDACTED] is on multiple medications due to [REDACTED] but is unable to take them and sleep in the event of Petitioner having a [REDACTED]. See ¶ 9. [REDACTED] asserted that following Petitioner's [REDACTED] [REDACTED]. See ¶ 9. To the


extent that Petitioner's [REDACTED] and [REDACTED] has experienced mental or emotional crises stemming from assisting with Petitioner's needs, Petitioner has not presented sufficient evidence to demonstrate the parent's lack of availability to continue providing the same level of care for Petitioner due to this concern. See ¶ 9. The record does not contain clear evidence to demonstrate that Petitioner's parent is no longer capable of providing care to meet Petitioner's needs or has diminished with the currently approved services. See ¶ 7, 9. Petitioner is authorized to receive private duty nursing services for sixteen (16) hours per day, seven (7) days per week, or alternatively, one hundred twelve (112) hours per week. See ¶ 7. Basic monitoring or supervision is not among the criteria for the purpose of requiring skilled nursing services. See ¶ 15, 19. It appears that one hundred twelve (112) hours per week should be sufficient to meet Petitioner's skilled nursing needs. See ¶ 7, 8. Based on all aforementioned facts, Respondent proved by a preponderance of the evidence that the continuation of private duty nursing services at 24 hours per day, 7 days per week are "in excess of [Petitioner]'s needs."

24. Upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Respondent proved by a preponderance of the evidence that the continuation of the previously approved level of home health (private duty nursing) services does not meet the medical necessity criteria. Looking at all the evidence relevant to the particular needs of this Petitioner, the Respondent demonstrated that the continuation of the previously approved home health (private duty nursing) services is not necessary to correct or ameliorate a defect or a physical and mental illness or condition. Accordingly, the undersigned finds that Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's home health (private duty nursing) services was correct.

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

Respondent's reduction of home health services (private duty nursing) is **AFFIRMED**.  
Petitioner's appeal based on Respondent's reduction of home health services (private duty nursing) is **DENIED**.

**DONE AND ORDERED** this 20th day of March, 2024 in Tallahassee, Leon County, Florida.

 Kimberly Roche  
23-FH3205  
2024.03.20 08:10:29  
-04'00'

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**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.

**COPIES FURNISHED TO:**



**Children's Medical Services**  
**CMSPlanContract@flhealth.gov**

**AHCA Medicaid Hearing Unit**  
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