

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



FILED

Feb 06, 2024, 10:42 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 24-FH0071

vs.

CHILDREN'S MEDICAL SERVICES,

RESPONDENT.

_____ /

FINAL ORDER OF DISMISSAL

The Fair Hearing request in this case was made by [REDACTED] ("Complainant") on January 3, 2024. Complainant is a third party and not the purported Recipient, [REDACTED]

Rule 59G-1.100(7)(c)(1), Florida Administrative Code ("F.A.C."), requires any person requesting a Fair Hearing on behalf of a Recipient or seeking to represent a Recipient in a Fair Hearing to provide and maintain with the Office a written authorization signed by the Recipient or by a person with legal authority to act on behalf of the Recipient. Failure to file a Designation of Authorized Representative ("DAR") constitutes grounds for dismissal of a Fair Hearing request pursuant to Rule 59G-1.100(9)(b)(4), F.A.C.

The Office of Fair Hearings ("Office") provided an Acknowledgement of Third Party Fair Hearing Request ("Acknowledgement") to Complainant at their address of record on January 11, 2024. The Acknowledgment advised Complainant of the DAR requirement under Rule 59G-1.100(7)(c)(1), F.A.C. Also included with the Acknowledgement was a sample DAR form with instructions for completion and submittal. The Office did not receive a response.

On January 19, 2024, the undersigned issued an Order to Show Cause (“Order”) why the third party hearing request should not be dismissed for failure to comply with Rule 59G-1.100(7)(c)(1), F.A.C. The Order was sent to the Complainant’s address of record. Included with the Order was another copy of the sample DAR form with instructions. The Order notified Complainant that failure to comply with the rule requirement on or before January 29, 2024, would result in dismissal of the case. On January 30, 2024, the Office of Fair Hearings received an e-mail response from the Complainant but the response did not include a signed designation of authorized representative for this matter. As explained in the Order, Fla. Admin. Code R. 59G-1.100(9)(b)(4) authorizes a Hearing Officer to deny or dismiss a Fair Hearing request if a person other than the Recipient makes the request without also filing a written designation authorizing the representation and the Agency to disclose to the authorized representative the Petitioner’s protected health information under the Health Insurance Portability and Accountability Act.

Dismissal of this case is without prejudice to refile within applicable time limits.

IT IS HEREBY ORDERED AND ADJUDGED THAT:

The case is dismissed without prejudice, and is now closed.

DONE AND ORDERED this 6th day of February, 2024, in Tallahassee, Leon County, Florida.

Alan J. Leifer
23-FH0071
2024.02.06
09:20:30 -05'00'



ALAN LEIFER, 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]

Children's Medical Services
CMSPlanContract@flhealth.gov

AHCA Medicaid Hearing Unit
MedicaidHearingUnit@ahca.myflorida.com