

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



FILED

May 07, 2024, 10:34 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 24-FH0526

vs.

CHILDREN'S MEDICAL SERVICES,

RESPONDENT.

_____ /

FINAL ORDER OF DISMISSAL

On February 12, 2024, [REDACTED] [REDACTED] ("Petitioner's Authorized Representative") requested a Fair Hearing on behalf of Petitioner, due to denial of Behavior Analysis 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.

When a Plan, in this case Children's Medical Services ("CMS" or "Respondent"), reduces, suspends, terminates, or denies a service provided under Medicaid, it issues a Notice of Adverse Benefit Determination ("NABD"). The NABD provides information related to the determination and explains how to ask for an appeal. A plan appeal is a review by the Plan of an adverse benefit determination. Once the Plan makes a determination regarding the plan appeal, it issues to the Enrollee, in this case Petitioner, a Notice of Plan Appeal Resolution ("NPAR"). The NPAR explains how to ask for a Fair Hearing if the Enrollee does not agree with the decision. In the instant case, the jurisdictional issue is whether the Office of Fair Hearings has jurisdiction of a Title XXI (Title XXI of the Social Security Act of 1997) proceeding with the Children's Health Insurance Program (CHIP) /Children's Medical Services Managed Care Plan with partner agency responsibility through the Florida Department of Health?

Because the reduction, suspension, termination, or denial of a service is a jurisdictional requirement for the Office, 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 lacks jurisdiction over the subject matter of the Fair Hearing request.


On April 22, 2024, the undersigned issued an Order to Show Cause (“Order”) why the Fair Hearing request should not be dismissed for failure to document or explain that The Office of Fair Hearings jurisdiction extends and includes Title XXI proceedings. The Order notified Petitioner that failure to comply with the rule requirement on or before May 2, 2024, would result in dismissal of the case. To date, the Office has not received documentation or 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 or to show that the Office of Fair Hearings has jurisdiction over Title XXI proceedings under CHIP with CMS and agency responsibility through the Florida Department of Health.

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 7th day of May, 2024 in Tallahassee, Leon County, Florida.


George L. Winslow, Jr.
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**GEORGE WINSLOW, 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]

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