



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

FILED

Aug 20, 2020, 9:45 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

[REDACTED]

PETITIONER,

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on July 21, 2020, at [REDACTED]

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Kizzy Alleyne
Senior Paralegal

Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The first issue (AHCA Case Number 20-FH[REDACTED]) is whether Respondent proved by a preponderance of the evidence that Respondent's decision to terminate Petitioner's adult companion care services was correct.

The second issue (AHCA Case Number 20-FH[REDACTED]) is whether Respondent proved by a preponderance of the evidence that Respondent's decision to reduce Petitioner's homemaker services from nine (9) hours weekly to seven (7) hours weekly was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. [REDACTED] ("[REDACTED]"), Petitioner's Authorized Representative and spouse, appeared at the Fair Hearing and provided testimony on Petitioner's behalf. The Petitioner also appeared at the hearing and provided testimony.

Kizzy Alleyne ("Ms. Alleyne"), Senior Paralegal for Sunshine State Health Plan, Inc. ("Sunshine" or "Respondent"), represented Respondent at the hearing. Dr. Andrew Russell ("Dr. Russell"), Medical Director for Sunshine, appeared as a witness for Respondent. The following individuals appeared as witnesses on behalf of Respondent, but did not testify: Leslie Weinreb, Care coordinator for Sunshine; Louise Jeanty, Supervisor of Quality Improvement for Sunshine; Jacqueline Seaton, Manager of Case Management for Sunshine; and Elizabeth Robinson, Case Management Supervisor for Sunshine.

Linda Latson, Registered Nurse Specialist for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared for observational purposes.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred and forty-eight (148)-page evidence packet in Case No. 20-FH [REDACTED] and an identical one hundred and forty-eight (148)-page evidence packet in Case No. 20-FH [REDACTED]. The evidence packet consisted of the following documents: the Medicaid Fair Hearing Table of Content; Medicaid Fair Hearing Summary, dated July 7, 2020; Notice of Adverse Benefit Determination (“NABD”) regarding companion care services, dated March 27, 2020; NABD regarding homemaker services, dated March 27, 2020; Sunshine’s 90 day care plan review, signed March 25, 2020 (the “3/25/20 care plan review”), Sunshine’s Annual Assessment, signed May 27, 2020 (the “3/27/20 care plan review”); the Florida Department of Elder Affairs 701B Comprehensive Assessment with an assessment date of March 25, 2020 (“701B Assessment”); 701B Assessment with an assessment date of May 27, 2020; letter from Sunshine regarding an expedited appeal, dated April 7, 2020; Sunshine’s Expedited Appeal Request Decision, dated April 7, 2020; Standard Appeal Acknowledgment regarding companion care services, dated April 7, 2020; Standard Appeal Acknowledgment regarding homemaker services, dated April 7, 2020; Notice of Plan Appeal Resolution (“NPAR”) regarding companion care services, dated April 23, 2020; NPAR regarding homemaker services, dated April 23, 2020; the Sunshine Health Policy and Procedure LT.UM.09; and Florida Administrative Code Rule (“Fla. Admin. Code R.”) 59G-1.010(166). Absent an objection from Petitioner, the undersigned admitted the one hundred and forty-eight (148)-page evidence packet into evidence as Respondent’s Composite Exhibit 1.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine. *See* Respondent's Composite Exhibit 1 at page 34. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.
2. Petitioner is 56-years old. *Id.* at 34. Petitioner has a history of cervical fractures and permanent spinal cord damage. *Id.* at 68. He also suffers from osteoarthritis, cervical spondylosis, myelopathy, radiculopathy, hypertension, hyperlipidemia, fibromyalgia, dizziness, and incontinence. *Id.* Petitioner thrives on maintaining his independence and is able to walk without assistance, drive himself alone to appointments, and manage steps. *Id.* at 34, 45 and 47. Petitioner lives with his wife, [REDACTED]. *Id.* at 44. [REDACTED] provides light housekeeping services and shopping. *Id.* at 47.
3. Regarding Activities of Daily Living ("ADLs"), Petitioner needs supervision or prompt for bathing and dressing; Petitioner needs no assistance for eating, using the bathroom, transferring, and walking/mobility. *Id.* at 65. Petitioner has had no issue with memory or cognitive problems, and his most recent 701B Assessment indicates no significant changes in this regard. *Id.* at 63.
4. Regarding Instrumental Activities of Daily Living ("IADLs"), Petitioner needs no assistance with using the telephone, preparing meals and using transportation; Petitioner needs assistance (but not total help) with heavy chores, light housekeeping, shopping, and managing medication; and Petitioner needs total assistance (cannot do at all) with managing money. *Id.* at 66. Petitioner requires some assistance using the stove or oven due to nerve issues and lack of nerve sensation. *Id.* at 28, 37 and 66.

5. In the 701B Assessment, the box “[n]ot at all” was checked for the following behaviors: forgetful or easily confused; gets lost or wanders off; intentionally injures or harms herself; expresses suicidal feelings or plans; or hallucinates, hears/sees things that are not there. *Id.* at 70. The 701B Assessment further indicates that Petitioner “does not need supervision.” *Id.*

6. Petitioner requested continuation of five (5) hours per week of adult companion care services and nine (9) hours per week of homemaker services. *Id.* at 3, 6 and 15.

7. On March 27, 2020, Respondent issued an NABD terminating Petitioner’s adult companion care services. *Id.* at 6. The NABD stated the reason for Respondent’s termination as follows:

We determined that your requested services are **not medically necessary** because the services do not meet either of the reason(s) checked below: (See Rule)

...

Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all other home and community-based services:

1. 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;
2. 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; and
3. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient’s caretaker, or the provider;

And one of the following:

1. Enable the enrollee to maintain or regain functional capacity; or
2. Enable an enrollee receiving long-term services and supports to have access to the benefits of community living, to achieve person-centered goals, and live and work in the setting of their choice.

...

The facts that we used to make our decision are: Sunshine Health has looked at the member’s present care needs and provided home services. The member’s present care plan includes 5 hours/week of Companion Care Services. Based on the assessment of

the member's care needs and household and caregiver status, Sunshine Health will terminate the 5 hours/week of Companion Care Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Id. at 6 - 10.

8. On March 27, 2020, Respondent issued an NABD reducing Petitioner's homemaker services. *Id.* at 15 - 19. The NABD stated the reason for the reduction as follows:

We determined that your requested services are **not medically necessary** because the services do not meet either of the reason(s) checked below: (See Rule)

...

Meet all of the following criteria for all extended state plan services used for the purposes of maintenance therapy and all other home and community-based services:

1. 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;
2. 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; and
3. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider;

And one of the following:

1. Enable the enrollee to maintain or regain functional capacity; or
2. Enable an enrollee receiving long-term services and supports to have access to the benefits of community living, to achieve person-centered goals, and live and work in the setting of their choice.

...

The facts that we used to make our decision are: Sunshine Health looked at the member's present care needs and provided home services. The member's present care plan includes 9 hours/week of Homemaker Services. Based on the assessment of the member's care needs and household and caregiver status, Sunshine Health will reduce the Homemaker Services from 9 hours/week to 7 hours/week (which is a reduction of 2 hours/week of Homemaker Services). This decision was made with Sunshine Health Policy LT.UM.09 Long term Care Ancillary Service Criteria.

Id. at 15 - 16.

9. At hearing, Dr. Russell testified that Petitioner's hours were reduced after a routine review in March, 2020, and a determination that, based on Petitioner's medical conditions, medical history, and living arrangements, Petitioner was receiving more hours than he needed.

10. Petitioner requested a plan appeal and received an NPAR dated April 23, 2020, upholding Sunshine's decision to terminate Petitioner's companion care services. *Id.* at 103 - 105. The NPAR explained as follows:

On April 6, 2020 we received your timely plan appeal request about Sunshine Health's Notice of Adverse Benefit Determination dated March 27, 2020, Notice of Adverse Benefit Determination Number [REDACTED] TERMINATION of the 5 hours of companion care provided to [Petitioner].

On April 21, 2020, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby DENIES your plan appeal. As a result, [Petitioner] will not receive companion care services, effective April 21, 2020.

The reason for our decision was the appeal to overturn the termination (end) of 5 hours per week of Companion Care Services (the person who helps and watches over you) is denied for lack of medical necessity (need). Based on the assessment, the member's currently approved services are adequate (enough) to meet the member's care needs. The member's present care plan includes 21 hours per week of Personal Care Services and 7 hours per week of Homemaker Services. Companion Care is provided to prevent social isolation (not alone). The member does not live alone and there is low risk of social isolation. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Id. at 103.

11. Petitioner requested a plan appeal and received an NPAR dated April 23, 2020, upholding Sunshine's decision to terminate Petitioner's companion care services. *Id.* at 110 - 111. The NPAR explained as follows:

On April 6, 2020 we received your timely plan appeal request about Sunshine Health's Notice of Adverse Benefit Determination dated March 27, 2020, Notice of Adverse Benefit Determination Number [REDACTED] REDUCING the

homemaker services (the person who helps you around the house) provided to [Petitioner].

On April 21, 2020, after consideration of the information you provided to Sunshine Health in support of your plan appeal, Sunshine Health hereby DENIES your plan appeal. As a result, [Petitioner] will not receive homemaker services, effective April 21, 2020.

The reason for our decision was the appeal to overturn the reduction (given a smaller amount) of 2 hours per week of Homemaker Services (the person who helps you around the house) is denied for lack of medical necessity (need). Based on the assessment, the member's currently approved services are adequate (enough) to meet the member's care needs. The member's present care plan includes 21 hours per week of Personal Care Services and 7 hours per week of Homemaker Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

Id. at 110.

12. Petitioner is currently approved to receive twenty-one (21) hours per week of personal care services and seven (7) hours per week of homemaker services. *Id.* at 110.

13. At the hearing, Dr. Russell asserted that adult companion care is not intended for “hands on” assistance; rather, it is designed for recipients who are at risk of social isolation because they live alone or do not get enough contact with other people. Dr. Russell testified that the adult companion care hours were terminated because Petitioner lives with [REDACTED] and is not in need of supervision.

14. Dr. Russell asserted that the homemaker service hours were reduced because those activities could be provided by a family member living in the home with Petitioner. Dr. Russell testified that the homemaker service hours are determined by an assessment of what the patient needs, taking into consideration his natural supports. Dr. Russell argued that Petitioner has minimal need for homemaker assistance because [REDACTED] is already performing activities such as light housekeeping and grocery shopping for the household. Dr. Russell reviewed

Petitioner's medical history and current medical conditions in preparation for the hearing. Dr. Russell determined that Petitioner needs only six (6) hours per week of homemaker services, but the Respondent is approving seven (7) hours per week. Dr. Russell added that if there is a change in Petitioner's medical or living conditions at some future point, then Sunshine will review Petitioner's circumstances and increase Petitioner's hours at that time, if needed.

15. Dr. Russell pointed out that, based on his review, Petitioner should receive a significantly lower number of personal care hours; however, the Plan is not reducing the twenty-one (21) hours of personal care services per week that Petitioner currently receives.

16. ██████████ testified that the Petitioner's myleopathy prevent him from feeling pain or temperature. She testified that Petitioner has gait abnormalities, weakness in the extremities, and experienced four falls in the past five years. For these reasons, ██████████ testified that Petitioner will require supervision when she returns to work at a future date. Petitioner originally requested additional services from Sunshine due to anticipated surgeries that were postponed due to the Covid-19 outbreak. ██████████ further testified that Petitioner thrives on trying to be as independent as possible.

17. Petitioner testified that he is awaiting the results of x-rays on his knees and may need knee surgery in the future. He stated that his overall medical condition is progressive, he is concerned for the future, and he wants to have enough services in place when ██████████ returns to work in the future.

CONCLUSIONS OF LAW

18. 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 the Agency under section 409.285(2)(a).

19. This hearing was held as a *de novo* proceeding pursuant to Fla. Admin. Code R. 59G-1.100(17)(b).

20. Because Respondent is terminating and reducing previously approved services, Fla. Admin Code R. 59-1.100(17)(g) assigns the burden of proof to 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.)

21. The LTC Policy, incorporated by reference in Fla. Admin. Code R. 59G-4.192, governs Long-Term Care services available under Florida Medicaid. The LTC Policy provides the following with respect to adult companion care and homemaker services:

1.1 Description and Program Goal

Under the Statewide Medicaid Managed Care Long-Term Care (LTC) program, managed care plans (LTC plans) are required to provide an array of home and community-based services that enable enrollees to live in the community and to avoid institutionalization.

...

1.3.1 Activities of Daily Living (ADLs)

ADLs include:

- Bathing
- Dressing
- Eating (oral feedings and fluid intake)
- Maintaining continence (examples include taking care of a catheter or colostomy bag or changing a disposable incontinence product when the recipient is unable to control bowel or bladder functions)
- Toileting

- Transferring

...

1.3.9 Instrumental Activities of Daily Living (IADLs)

When necessary for the recipient to function independently, including:

- Grocery shopping
- Laundry
- Light housework
- Meal preparation
- Money Management
- Personal hygiene
- Transportation
- Using the telephone to take care of essential tasks (examples include paying bills and setting up medical appointments)

...

4.1 General Criteria

Florida Medicaid LTC plans cover services that meet all of the following:

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

...

4.2.1.1. Adult Companion Care

The provision of non-medical care, supervision when necessary to protect the health, safety, and well-being of the enrollee, or social enrichment of a functionally impaired enrollee. This includes assistance or supervision with meal preparation, laundry, and light housekeeping tasks incidental to the care and supervision of the enrollee.

...

4.2.1.9 Homemaker Services

The provision of general household activities (such as meal preparation) and routine household care (including laundry and pest control) by a trained homemaker, when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities.

...

4.2.2 Mixed Services

Mixed services may exceed State Plan limits on those services in accordance with this policy. The Long-term Care benefit includes coverage of the following mixed services:

...

4.2.2.6 Personal Care

In accordance with Rule 59G-4.215, F.A.C., for enrollees under the age of 21 years. To provide assistance with ADLs and IADLs, including assistance with preparation of meals, and housekeeping chores which are incidental to the care furnished or are essential to the health and welfare of the enrollee. The scope and nature of

these services do not otherwise differ from personal care services furnished to persons under the age of 21 years.

...

6.2 Specific Criteria

In order to receive LTC services, services must be documented on an individualized plan of care based upon a comprehensive needs assessment. The comprehensive assessment includes the completion of the 701-B Comprehensive Assessment and the LTC Supplemental Assessment.

LTC Policy at pages 1 - 8.

22. The LTC Policy also addresses medical necessity:

1.3.14 Medically Necessary or Medical Necessity

For the purposes of this policy, the service must meet either of the following criteria:

(a) Nursing facility services and mixed services must meet the medical necessity criteria defined in Rule 59G-1.010, F.A.C.

(b) All other LTC supportive services must meet all of the following:

- 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 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

And, one of the following:

- Enable the enrollee to maintain or regain functional capacity; or
- Enable the enrollee to have access to the benefits of community living, to achieve person-centered goals, and to live and work in the setting of his or her choice.

LTC Policy at pages 2 – 3.

23. Petitioner requested continuation of the following services: the continuation of five (5) hours of adult companion care per week and the continuation of nine (9) hours of homemaker services per week. In two separate NABDs, both dated June 27, 2019, Respondent terminated

Petitioner's adult companion care hours and reduced Petitioner's homemaker care service hours to seven (7) hours per week. *Id.* at 103 – 105 and 110 - 111. In regards to the adult companion care services, Respondent explained that Petitioner's request was not medically necessary because Petitioner does not live alone and there is no risk of social isolation. In regards to homemaker care services, Respondent explained that Petitioner's request was not medically necessary because Petitioner has natural supports to help with homemaker tasks.

Adult Companion Care Services

24. As provided in the LTC Policy, the purpose of adult companion care services is to provide “non-medical care, supervision when necessary to protect the health, safety, and well-being of the enrollee, or social enrichment of a functionally impaired enrollee.” *See supra* ¶ 21. Companion care is designed to prevent social isolation or to provide supervision. *See supra* ¶ 9 and 12. Dr. Russell testified, *supra* ¶ 13, that Petitioner has opportunities to socialize with his spouse, ██████████, and that there is no evidence that Petitioner requires supervision. ██████████ testified that she wants to return to working outside the home at some point in the future, *supra* ¶ 16, and Petitioner will need supervision at that time because he is at risk of falling and unable to feel pain or temperature. *See supra* ¶ 16. In Petitioner's 701B Assessment, the box “[n]ot at all” was checked for the following behaviors: forgetful or easily confused; gets lost or wanders off; intentionally injures or harms herself; expresses suicidal feelings or plans; or hallucinates, hears/sees things that are not there. *See supra* ¶ 3 and 5. The assessment further expressly indicates that Petitioner does not need supervision. *See supra* ¶ 5. Thus, ██████████'s assertion that Petitioner needs supervision, and cannot be left alone while she is away, is not supported by the evidence of record. Moreover, Petitioner resides with ██████████

██████████ *supra* ¶ 2, and that gives him the opportunity to socialize with another person. Dr. Russell testified that Petitioner may request a change in services if ██████████ in fact returns to work or circumstances warrant a change at a future date. See *supra* ¶ 13.

25. Based on the foregoing, the Petitioner is not at risk of social isolation because he lives with ██████████, and she does not currently work outside the home. Further, consistent with Petitioner's 701B, Petitioner does not need supervision at this time. As such, Respondent has demonstrated that the requested adult companion care service hours are not individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and are in excess of the Petitioner's needs. Therefore, the adult companion care services are not medically necessary. As Dr. Russell testified, Petitioner may request a change in services if ██████████ in fact returns to work or circumstances warrant a change at a future date.

26. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Respondent has proved by a preponderance of the evidence that Respondent's termination of adult companion care was correct.

Homemaker Services

27. In the instant case, Respondent reduced Petitioner's homemaker services from nine (9) hours per week to seven (7) hours per week. As established on the record by the evidence and testimony, Respondent reduced the homemaker services because seven (7) hours per week are "adequate to meet the member's care needs." See *supra* ¶ 8, 11 and 14.

28. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: (a) are determined medically necessary, as defined in the SMMC LTC Policy; (b) do not duplicate another service; and (c) meet the criteria as specified in the SMMC LTC Policy. See supra ¶ 21.

29. The testimony and evidence presented in this case reflect that Respondent's reduction of homemaker services was warranted under the circumstances of this case. Specifically, Petitioner's homemaker services failed to satisfy the medical necessity criteria which requires that the requested 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 supra ¶ 22.

30. As stated in the LTC Policy, homemaker services provide for general household activities and routine household care by a trained homemaker, "*when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities*" [emphasis added]. See supra ¶ 21. The record reflects that Petitioner lives with his primary caregiver, [REDACTED], who currently does not work outside the home. See supra ¶ 2, 10, 13 and 16. [REDACTED] provides light housekeeping, shops, and prepares meals for the household, and she also administers Petitioner's medication. See supra ¶ 2 and 4. Petitioner's 701B states that Petitioner needs no assistance with using the telephone, preparing meals, and using transportation. See supra ¶ 4. Petitioner needs only "some assistance" with many of the IADLs that correspond with homemaker services, such as: heavy chores, light housekeeping, shopping, and managing medication. Petitioner only needs total assistance (cannot do at all) with managing money. See supra ¶ 4. Petitioner is able to drive himself to appointments, walk, and manage steps without assistance, and Petitioner thrives on living as independently as possible. See supra ¶ 2 and 16.

31. Dr. Russell testified that he reviewed Petitioner's medical history and current medical needs. *See supra* ¶ 14. Dr. Russell argued that a reduction in homemaker services is medically appropriate because Petitioner lives with his primary caregiver, [REDACTED], who is already performing activities such as light housekeeping, grocery shopping, and preparing meals for the household. *See supra* ¶ 2, 13 and 14. Dr. Russell testified that, in his professional opinion, Petitioner only requires six (6) hours of homemaker services rather than the seven (7) hours that were approved in this case. *See supra* ¶ 14. Dr. Russell confirmed that the twenty-one (21) hours of personal care services per week that Petitioner currently receives will remain in place despite the reduction in homemaker services. *See supra* ¶ 15.

32. Furthermore, [REDACTED] testified that Petitioner originally requested additional services from Sunshine due to anticipated future surgeries that were postponed due to the Covid-19 outbreak. *See supra* ¶ 16. Petitioner testified that he will need more services in place if he requires knee surgery or if [REDACTED] returns to work at a future date. *See supra* ¶ 17. As such, the testimony of [REDACTED] and Petitioner relies on the possibility of an increased need for services as a result of future surgeries that may or may not occur or [REDACTED]'s return to work at an unknown future date. *See supra* ¶ 16 and 17.

33. In light of the fact that [REDACTED] already performs light housekeeping, meal preparation, and grocery shopping for the household, *supra* ¶ 2, 13 and 14, and Petitioner's 701B, discussed *supra* ¶ 30, Dr. Russell's testimony that seven (7) hours of homemaker services would be more than sufficient for Petitioner is credible. *See supra* ¶ 14. As provided above, homemaker services are intended for situations where the individual regularly responsible for those activities is temporarily absent or unable to manage these activities, which at present, appears to not

entirely be the case here. Based on the foregoing, Respondent has demonstrated that Petitioner's current level of homemaker services are in excess of the Petitioner's needs. As such, Respondent has shown that nine (9) hours per week of homemaker services are not medically necessary.

34. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Respondent has proved by a preponderance of the evidence that Respondent's reduction of homemaker services was correct.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Respondent's termination of adult companion care is **AFFIRMED**. Petitioner's appeal based on Respondent's termination is **DENIED**.

Respondent's reduction of homemaker care services is **AFFIRMED**. Petitioner's appeal based on Respondent's reduction is **DENIED**.

DONE and ORDERED this 20th day of August, 2020, in Tallahassee, Leon County, Florida.



Laura Gallagher
20-FH [REDACTED] & 20-FH [REDACTED]
2020.08.20 07:25:52 -04'00'

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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 CHEADQUARTERS 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:



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AHCA Medicaid Hearing Unit

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