



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

FILED

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OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

[REDACTED]

PETITIONER,

AHCA Case No.: 20- [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 August 3, 2020, at [REDACTED]

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Maria Mojica
Compliance Specialist
Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The first issue (AHCA Case Number 20-FH[REDACTED]) is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of Petitioner's request for an additional ten (10) hours per week of homemaker services was incorrect.

The second issue (AHCA Case Number 20-[REDACTED]) is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of Petitioner's request for an additional ten (10) hours per week of adult companion care services was incorrect.

PRELIMINARY STATEMENT

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

Maria Mojica ("Ms. Mojica"), Compliance Specialist for Sunshine State Health Plan, Inc. ("Sunshine" or "Respondent"), represented Respondent at the hearing. Dr. Bonnie Koreff-Wolf ("Dr. Koreff-Wolf"), Medical Director for Sunshine, appeared as a witness for Respondent. The following individuals appeared as witnesses for Respondent but did not testify: Alsheneeka Williams, Care Coordinator Supervisor for Sunshine; Jodie Cannon, Care Coordinator for Sunshine; Melissa Layne, Senior Manager for Quality Improvement for Sunshine; Tami Swann, Director of Case Management for Sunshine; Sarah Rodriguez, Long Term Care Supervisor for Sunshine; Jahaira Sykes, Long Term Care Coordinator for Sunshine.

Doris Rivera, Medical Health Care Program Analyst 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 fifteen (115)-page evidence packet. The evidence packet consisted of the following

documents: the Medicaid Fair Hearing Table of Content; Medicaid Fair Hearing Summary, dated June 29, 2020; Notice of Adverse Benefit Determination (“NABD”) dated April 9, 2020; Sunshine’s Long Term Care Person – Centered Care Plan (“LTC Plan”), signed by care manager on March 11, 2020; Sunshine’s LTC Plan, signed by care manager on April 27, 2020; the Florida Department of Elder Affairs 701B Comprehensive Assessment with an assessment date of January 15, 2020 (“701B Assessment”); 701B Assessment with an assessment date of April 21, 2020; physician notes, dated [REDACTED], 2020; Sunshine’s Standard Appeal Acknowledgment, dated May 12, 2020; Notice of Plan Appeal Resolution (“NPAR”), dated June 5, 2020; the Sunshine Health Policy and Procedure LT.UM.09; and Florida Administrative Code Rule (“Fla. Admin. Code R.”) 59G-1.010(166). The undersigned admitted the one hundred and fifteen (115)-page evidence packet into evidence as Respondent’s Composite Exhibit 1. The undersigned further gave [REDACTED] an opportunity to explain such “errors, inaccuracies, and missing information” during her testimony at the Fair Hearing.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine. See Respondent’s Composite Exhibit 1 at page 22-29. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.
2. Petitioner is 86-years old and lives alone. *Id.* at 13, 23 and 50. Petitioner’s primary language is [REDACTED], and she does not speak English well. *Id.* at 13, 22 and 49. Petitioner’s daughter lives five minutes away, is her primary caregiver, and assists Petitioner regularly. *Id.* at 22-23 and 50. Petitioner is wheelchair bound. *Id.* at 69. She has a history of cardiac ascites, cirrhosis of the liver, congestive heart failure, end stage liver disease, thrombophilia, and bowel

and bladder incontinence. *Id.* at 25, 55 and 67 - 68. Petitioner experiences frequent nocturia. *Id.* at 67. Petitioner undergoes monthly paracentesis treatment followed by intravenous (“IV”) administered albumin. *Id.* Following the paracentesis procedure, Petitioner experiences generalized pain, weakness, dizziness, fatigue and disorientation. *Id.* at 67 and 68.

3. Petitioner’s most recent 701B Assessment, which includes an assessment of Petitioner’s Activities of Daily Living (“ADLs”) and Instrumental Activities of Daily Living (“IADLs”), was completed by Ms. Sykes with ██████████ present on the telephone due to COVID-19. *Id.* at 50. Ms. Sykes signed the 701B Assessment on April 21, 2020. *Id.* at 49 – 50. Because Petitioner does not speak English, most of Ms. Sykes’ communication with Petitioner is conducted through ██████████. *Id.* at 51.

4. Regarding ADLs, Petitioner needs supervision or prompt for using the bathroom; Petitioner needs no assistance for eating, transferring, and walking/mobility; and Petitioner needs assistance (but not total help) with bathing and dressing. *Id.* at 53. Petitioner wears pull-ups for incontinence. *Id.* at 53 and 55.

5. Regarding IADLs, Petitioner needs no assistance with using the telephone; Petitioner needs assistance (but not total help) with light housekeeping, managing money, preparing meals, shopping, managing medication, and using transportation; and Petitioner needs total assistance (cannot do at all) with heavy chores. *Id.* at 54. Further, Petitioner “always has assistance” with her IADLs. *Id.*

6. In the April 21, 2020, 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 58. The 701B Assessment further indicates that Petitioner “does not need supervision.” *Id.* Further, Petitioner and her family have had “no concerns” about Petitioner’s memory, *Id.* at 51, and she visited the emergency room once in the past year. *Id.* at 52.

7. Petitioner requested an additional ten (10) hours per week of homemaker services and an additional ten (10) hours per week of adult companion care services. *Id.* at 2 – 4. On April 9, 2020, Respondent issued an NABD denying Petitioner’s requests for additional services. *Id.* at 4 -

8. The NABD stated the reason for the denials as follows:

We made our decision because:
(Check all boxes that apply)

- We determined that your requested services are **not medically necessary** because the services do not meet 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:

The request for an extra 10 hours/week of Homemaker Services + an extra 10 hours/week of Companion Care Services is denied. Based on the assessment, the member’s currently approved services are adequate to meet the member’s care needs. The member’s present care plan includes:

- 10 hours/week of Personal Care Services,
- 12 hours/week of Homemaker Services, and

- 7 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 4 – 8.

8. On [REDACTED], 2020, Petitioner’s physician, [REDACTED], indicated in his case notes that Petitioner may undergo paracentesis twice per month in the future to help alleviate Petitioner’s nocturia symptoms. *Id.* at 70. He further indicated that Petitioner is having daily episodes of urinary and fecal incontinence “requiring more additional hands on assistance when it comes to bathing, grooming, dressing, and cleaning up after herself.” *Id.* at 67.

9. Petitioner requested a plan appeal and received an NPAR dated June 5, 2020, upholding Sunshine’s decision to deny Petitioner’s request for additional companion care services and homemaker services. *Id.* at 77-79. The NPAR explained as follows:

On May 7, 2020, we received your timely plan appeal request about Sunshine Health’s Notice of Adverse Benefit Determination dated April 9, 2020, Notice of Adverse Benefit Determination Number [REDACTED], denying, the additional 10 hours per week of homemaking services, the person that cleans for you), and additional 10 hours per week companion care (the person who helps watches over you), provided to [Petitioner].

On June 2, 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 the additional 10 hours per week of homemaking services, and the additional 10 hours per week companion care effective June 2, 2020.

The reason for our decision was:

The appeal to overturn the denial of an extra 10 hours per week of Homemaker Services and an extra 10 hours per week of Companion Care Services is denied for lack of medical necessity. Based on the assessment, the member’s currently approved services are adequate to meet the member’s care needs. The member’s present care plan includes 10 hours per week of Personal Care Services, 12 hours per week of Homemaker Services, and 7 hours per week of Companion Care Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

This decision was made by a Medical Director who is Board Certified Physician Internal Medicine.

Id. at 77.

10. On July 7, 2020, Sunshine added an additional five (5) hours of personal care, or hands-on services, to Petitioner's Plan of Care according to Dr. Koreff-Wolf's testimony at the Fair Hearing. As a result, Petitioner currently receives fifteen (15) hours per week of personal care services, twelve (12) hours per week of homemaker services, and seven (7) hours per week of companion care services. *Id.* at 77. Dr. Koreff-Wolf testified that seven (7) hours of homemaker services and seven (7) hours of companion care services are adequate to meet Petitioner's medical needs.

11. ██████ testified that Petitioner recently changed plans to Sunshine and is receiving less services. ██████ testified that she is Petitioner's primary caregiver. ██████ works a minimum of forty (40) hours per week and travels out of town on business approximately ten (10) days per month.

12. ██████ testified that Petitioner's monthly paracentesis treatments take approximately five (5) to seven (7) hours to complete. She testified that Petitioner's physician may begin paracentesis treatments twice per month in the future to help with Petitioner's nocturia symptoms. ██████ stated that Petitioner experiences pain and disorientation after her paracentesis treatments. She further testified that Petitioner is ██████, and she is unable to go to paracentesis treatments alone, or to adequately communicate, due to a language barrier.

13. ██████ did not dispute the accuracy of Petitioner's most recent 701B Assessment or that she participated in completing it on the telephone with Ms. Sykes. However, ██████

made the following statements concerning purported errors and omissions in Petitioner's most recent LTC Plan, which was signed by Ms. Sykes on April 27, 2020, but was not signed by either the Petitioner or ██████████ (*Id.* at 29):

- The LTC Plan states that Petitioner is able to "transfer and walk independently." *Id.* at 22. However, Petitioner is wheelchair bound most of the time and is not able to walk independently. Petitioner recently attempted a transfer without assistance and fell.
- The LTC Plan states that Petitioner "is able to make her needs known." *Id.* However, Petitioner's primary language is ██████████, and she is unable to communicate or understand others when attending appointments alone.
- The LTC Plan states that Petitioner's "daughter assists member regularly." *Id.* However, ██████████ works full time and is out of town on business approximately ten (10) days per month.
- The LTC Plan states that Petitioner "lives alone and likes companionship." *Id.* at 25. However, Petitioner needs more adult companion care hours especially as ██████████ travels frequently.
- The LTC states that Petitioner requires "light housekeeping." *Id.* at 26. However, due to COVID-19, Petitioner's requires heavy housekeeping for her safety. ██████████ has found blood and feces on Petitioner's floor, shoes and walker. She testified that these are extra considerations that need to be addressed with housekeeping.
- The LTC Plan does not take into consideration that Petitioner is unable to transport herself to multiple doctor appointments as well as blood draws, and imaging appointments.

- The LTC Plan states that Petitioner “needs assistance” with personal care, bathing and meal preparation. *Id.* at 25. However, Petitioner cannot bathe, dress, or groom herself, nor is Petitioner able to manage money, use the telephone, cook or clean.
- The LTC Plan states that Petitioner is “alert and oriented.” *Id.* at 22. However, Petitioner is disoriented on a daily basis due to her paracentesis treatments, use of diuretics, and routine nocturia.

14. Despite ██████████’s objections to the information in Petitioner’s most recent LTC Plan, the LTC Plan is consistent with Petitioner’s previous LTC Plan, which was signed by the Petitioner on January 15, 2020, and signed by Petitioner’s case manager on March 11, 2020. *Id.* at 20.

CONCLUSIONS OF LAW

15. 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).

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

17. Because Petitioner is requesting new services, Fla. Admin Code R. 59G-1.100(17)(g) assigns the burden of proof to Petitioner. 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.)

18. The Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (March 2017) (“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.

19. 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.

20. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), which is 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 severe 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.

Homemaker Services

21. In the instant case, Petitioner requested ten (10) additional homemaker hours per week. As established on the record by the evidence and testimony, Respondent denied the request because the current amount of homemaker services are adequate to meet the Petitioner's care needs. *See supra* ¶ 6 and 7.

22. 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* ¶ 15.

23. The testimony and evidence presented reflect that Respondent's denial of additional homemaker services was warranted under the circumstances of this case. Specifically, Petitioner's request for additional 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* ¶ 16.

24. As stated in the LTC Policy, homemaker services provide for general household activities and routine household care when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities. *See supra* ¶ 15. The record reflects that Petitioner's primary caregiver, [REDACTED], lives five minutes away and assists Petitioner regularly. *See supra* ¶ 2. The record further indicates that Petitioner currently "always has assistance" with her IADLs, *supra* ¶ 5, and that Respondent added five (5) hours of personal care services per week to Petitioner's LTC Plan (on July 7, 2020) subsequent to the NPAR at issue in this case. *See supra* ¶ 8.

25. ██████'s testimony about the errors or omissions in Petitioner's most recent LTC Plan conflicts with Petitioner's most recent 701B Assessment (dated April 21, 2020), which was created with the full participation of ██████ due to Petitioner's language barrier. See supra ¶ 3. Although ██████ testified that Petitioner cannot use the telephone, bathe, dress, groom herself, manage money, cook or clean, *supra* ¶ 4 and 11, Petitioner's 701B Assessment states the Petitioner only needs assistance (but not total help) with many of the IADLs that correspond with homemaker services, such as: managing money, preparing meals, shopping, managing medication, and using transportation. See supra ¶ 5. According to Petitioner's 701B Assessment, the only IADL that Petitioner needs "total assistance with" is heavy chores. See supra ¶ 5. Further, Petitioner's most recent LTC Plan is consistent with Petitioner's 701B Assessment, dated April 21, 2020, concerning Petitioner's IADL's. See Respondent's Composite Exhibit 1 at pages 23 - 29.

26. ██████ argued that the request for additional services is supported by the documentation provided by Petitioner's physician, ██████, dated ██████, 2020. ██████'s notes state that Petitioner experiences frequent nocturia, pain, weakness, dizziness, fatigue and disorientation as a result of paracentesis treatment, and Petitioner may undergo paracentesis twice per month in the future to help with nocturia. See supra ¶ 2 and Respondent's Composite Exhibit 1 at pages 67 -70. He further indicated that Petitioner is having daily episodes of urinary and fecal incontinence "requiring more additional hands on assistance when it comes to bathing, grooming, dressing, and cleaning up after herself." See supra ¶ 14. However, ██████'s notes did not recommend what "hands on" services, or amount of services, are medically necessary for Petitioner. Since ██████'s notes were written, Sunshine added five (5) additional hours per week of "hands on" personal care services to Petitioner's long term care plan. See supra ¶ 10.

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 supra* ¶ 17.

27. Even if ██████'s assertions are true concerning the inaccuracies in Petitioner's LTC Plan, *supra* ¶ 13, Petitioner did not demonstrate why she needs an additional ten (10) hours per week for homemaker services. ██████ testified that Petitioner needs more housekeeping services, or "heavy housekeeping," for safety reasons and due to COVID – 19 and that Petitioner is unable to prepare meals. *See supra* ¶13. None of the other tasks mentioned by ██████ fall under the LTC Policy definition of homemaker services. *See supra* ¶ 18.

28. In light of the fact that Petitioner's primary caregiver lives only five minutes away, Petitioner's 701B assessment states that Petitioner currently has no unmet needs for her IADLs, and Sunshine added five (5) additional personal care hours to Petitioner's long term care plan since the NPAR, Dr. Koreff-Wolff's testimony that seven (7) hours of homemaker services would be more than sufficient for Petitioner is credible. *See supra* ¶ 14. Based on the foregoing, Respondent has demonstrated that Petitioner's requested level of homemaker services are in excess of the Petitioner's needs. As such, Respondent has shown that ten (10) additional hours per week of homemaker services are not medically necessary.

29. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Petitioner did not prove by a preponderance of the evidence that Respondent's denial of additional homemaker services was incorrect.

Adult Companion Care Services

30. 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* ¶ 15. Companion care is designed to prevent social isolation or to provide supervision. Further, Petitioner’s most recent 701B Assessment reflects that Petitioner requires no supervision and there are no concerns with Petitioner’s memory. See *supra* ¶ 5. 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* ¶ 5. Thus, ██████████’s assertion that Petitioner needs more adult companion care hours is not supported by the evidence of record.

31. Based on the foregoing, the Petitioner is not at risk of social isolation because her primary caregiver lives nearby. Further, consistent with Petitioner’s 701B, Petitioner does not need supervision at this time. As such, Petitioner failed to demonstrate that she has an unmet adult companion care need. Accordingly, 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.

32. Even if ██████████’s assertions are true concerning the inaccuracies in Petitioner’s LTC Plan, *supra* ¶ 13, Petitioner did not demonstrate why she needs an additional ten (10) hours per week for adult companion care services. ██████████ testified that Petitioner needs more companionship and that ██████████ travels out of town on business ten (10) days each month. See *supra* ¶ 13. The record is devoid of any documentation supporting ██████████’s statement

concerning the frequency and duration of her work travel. None of the other tasks mentioned by [REDACTED] fall under the LTC Policy definition of adult companion care services. See *supra* ¶ 18.

33. Therefore, upon consideration of the testimony provided, evidence submitted, and applicable policies, the undersigned finds that Petitioner has not proved by a preponderance of the evidence that Respondent's denial of additional adult companion care was incorrect.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

Respondent's denial of additional homemaker services is **AFFIRMED**. Petitioner's appeal based on Respondent's denial is **DENIED**.

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

DONE and ORDERED this 9th day of September, 2020, in Tallahassee, Leon County, Florida.



Laura Gallagher
20-FH [REDACTED] & 20-[REDACTED]
2020.09.09 11:02:29 -04'00'

LAURA GALLAGHER Hearing Officer
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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 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:



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