



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

FILED

Oct 13, 2020, 8:09 am
OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

COVENTRY HEALTHCARE OF FLORIDA, INC. d/b/a
AETNA BETTER HEALTH OF FLORIDA, INC.,

RESPONDENT.

_____ /

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

COVENTRY HEALTHCARE OF FLORIDA, INC. d/b/a
AETNA BETTER HEALTH OF FLORIDA, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned Hearing Officer convened a telephonic consolidated Fair Hearing in the above-styled case on August 20, 2020, at [REDACTED].

APPEARANCES

For the Petitioner: [REDACTED]
Authorized Representative

For the Respondent: Deborah Wingo
Director of Long-Term Care

Coventry Healthcare of Florida, Inc. d/b/a
Aetna Better Health of Florida, Inc.

STATEMENT OF ISSUE

The first issue is whether Respondent proved by a preponderance of the evidence that Respondent's termination of Adult Companion Care services was correct.

The second issue is whether Respondent proved by a preponderance of the evidence that Respondent's termination of Homemaker services was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared for the Fair Hearing telephonically. [REDACTED] ("Petitioner's Authorized Representative" or "[REDACTED]"), Petitioner's mother, appeared for the Fair Hearing to provide testimony on behalf of Petitioner and did not call any witnesses.

Deborah Wingo ("Ms. Wingo"), Director of Long-Term Care for Coventry Healthcare of Florida, Inc. d/b/a Aetna Better Health of Florida, Inc. ("Aetna"), appeared as representative for Respondent. The following persons appeared as witnesses for Respondent: Damaris Seguro, Grievances and Appeals Manager for Aetna; and Marie Angelee Cataluna, Manager for Long-term care services for Aetna; Dr. Olunwa Ikpiazu ("Dr. Ikpiazu"), Medical Director for Aetna; Dr. Lia Rodriguez, Medical Director for Aetna; Fabiola Serna, Grievance and Appeals Analyst for Aetna; and Tammy Pwenhofel, Manager of Long-term care for Aetna.

Stephanie Lang, Registered Nurse and Fair Hearing Liaison for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared as an observer.

Interpreter Zach Castro (ID number #208574), Spanish Interpreter for Language Line Solutions, appeared for the Fair Hearing to provide Language Translation services for Petitioner.

Petitioner's Authorized Representative did not introduce any exhibits at the Fair Hearing. Respondent introduced an evidence packet containing two hundred and four (204) pages, which was admitted into evidence as Respondent's Composite Exhibit 1. Respondent's Composite Exhibit 1 included the following: Medicaid Fair Hearing & Appeal Document Checklist for AHCA Case Number 20-FH[REDACTED]; AHCA Case Number 20-FH[REDACTED] Acknowledgement of Medicaid Fair Hearing Request (dated July 20, 2020) – English; AHCA Case Number 20-FH[REDACTED] Acknowledgement of Medicaid Fair Hearing Request (dated July 20, 2020) – Spanish; Notice of Adverse Benefit Determination ("NABD") (dated December 18, 2019) (Plan ID: [REDACTED]) for AHCA Case Number 20-FH[REDACTED]; Plan Appeal Acknowledgement letter (dated April 6, 2020) for AHCA Case Number 20-FH[REDACTED]; Notice of Plan Appeal Resolution ("NPAR") (dated April 7, 2020) (Plan ID: [REDACTED]) for AHCA Case Number 20-FH[REDACTED]; Comprehensive LTSS Plan of Care (signed on July 8, 2020); Florida Department of Elder Affairs: 701B Comprehensive Assessment ("701B Comprehensive Assessment") (dated July 8, 2020); Caregiver Supplemental Assessment (undated); Florida Medicaid Statewide Medicaid Managed Care Long-Term Care Program Coverage Policy ("LTC Policy") (March 2017); Florida Medicaid Home Health Visit Services Coverage Policy (November 2016); Medicaid Fair Hearing & Appeal Document Checklist for AHCA Case Number 20-FH[REDACTED]; AHCA Case Number 20-FH[REDACTED] Acknowledgement of Medicaid Fair Hearing Request (dated July 20, 2020) – English; AHCA Case Number 20-FH[REDACTED] Acknowledgement of Medicaid Fair Hearing Request (dated July 20, 2020) – Spanish; Notice of Adverse Benefit Determination ("NABD") (dated December 18, 2019) (Plan ID: [REDACTED]) for AHCA Case Number 20-FH[REDACTED]; Plan Appeal Acknowledgement letter (dated April 6, 2020) for AHCA Case Number 20-FH[REDACTED]; Notice of Plan Appeal Resolution

("NPAR") (dated April 8, 2020) (Plan ID: [REDACTED]) for AHCA Case Number 20-FH [REDACTED]; a copy of the Comprehensive LTSS Plan of Care (signed on July 8, 2020); a copy of the 701B Comprehensive Assessment (dated July 8, 2020); a copy of the Caregiver Supplemental Assessment (undated); a copy of the LTC Policy; and a copy of the Florida Medicaid Home Health Visit Services Coverage Policy (November 2016).

FINDINGS OF FACT

1. As of [REDACTED], 2018, Petitioner is an enrolled member of Aetna's Long-Term Care ("LTC") Program. See Respondent's Composite Exhibit 1, page 44. Aetna is a Medicaid Managed Care organization contracted by the Agency to provide services to eligible Medicaid recipients in the State of Florida.

2. Petitioner is a twenty-nine (29) year old male residing in the community with his primary caregiver and his minor sister. *Id.* at 48-65. Petitioner has Hemiplegia (right side dominant). *Id.* at 49. Petitioner is diagnosed with the following health conditions: Constant bladder incontinence; Constant bowel incontinence; Partial paralysis; Stroke/CVA; and Hemiplegia. *Id.* at 54-55. Petitioner experiences memory loss, confusion, and forgetfulness. *Id.* at 56-57.

3. Petitioner's primary caregiver is [REDACTED]. *Id.* at 62. [REDACTED] does not work outside of the home. *Id.* [REDACTED] resides with the Petitioner. *Id.* at 49. According to the LTC Caregiver Supplement, [REDACTED] provides eight (8) hours per day of assistance with activities of daily living ("ADLs"), and four (4) hours per day of assistance with instrumental activities of daily living ("IADLs"). *Id.* at 67-68. As testified to by [REDACTED], she accompanies the Petitioner all the time for appointments. As testified to by [REDACTED], Petitioner's sister attends school and cannot assist [REDACTED] with the care of the Petitioner.

4. Petitioner needs assistance (but not total help) with ADLs such as bathing, dressing, eating, and using the bathroom. *Id.* at 52. Petitioner needs supervision or prompt with walking/mobility. *Id.* Petitioner needs no assistance with transferring. *Id.* As testified to by [REDACTED], Petitioner needs assistance with using the bathroom during therapy appointments and medical appointments.

5. Petitioner requires total assistance (cannot do at all) with IADLs such as heavy chores, light housekeeping, meal preparation, money management, and shopping. *Id.* at 53. Petitioner needs assistance (but not total help) with medication management and using transportation. *Id.* Petitioner needs no assistance with using the telephone. *Id.*

6. As of July 8, 2020, Petitioner currently receives seven (7) hours per week of Homemaker services and twenty (20) hours per week of Personal Care services. *Id.* at 43.

7. On December 18, 2019, Aetna issued an NABD terminating Petitioner's thirteen (13) hours per week of Adult Companion Care services. *Id.* at 16-17. The NABD stated as follows:

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

...

Other Authority

The facts that we used to make our decision are: Verbal request from member to terminate service. Case manager received verbal notification from member/caregiver to terminate service on December 28, 2019.

Id.

8. On December 18, 2019, Aetna issued an NABD terminating Petitioner's seven (7) hours per week of Homemaker services. *Id.* at 118-119. The NABD stated as follows:

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

...

Other Authority

The facts that we used to make our decision are: Verbal request from member to terminate service. Case manager received verbal notification from member/caregiver to terminate service on December 28, 2019.

Id.

9. On April 7, 2020, Aetna issued an NPAR upholding the termination of Petitioner's thirteen (13) hours per week of Adult Companion Care services. *Id.* at 35-36. The NPAR explained as follows:

On April 7, 2020, after consideration of the information you provided to Aetna Better Health of Florida in support of your plan appeal, Aetna Better Health of Florida hereby denies your plan appeal. As a result, [Petitioner] will receive 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly, effective 4/7/2020.

Dr. Olunwa C. Ikpeazu, MD, Medical Director, Florida Board Certified in Pediatric Medicine reviewed your appeal. You have appealed to Aetna Better Health of Florida to cover 13 hours of companion care that was denied. We will not approve this request . You are currently approved to receive 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly. You live with your mother who is your caregiver and provides care to you as a direct service worker. We have records dated 12/2/19 that shows you need assistance with bathing and dressing, eating and going to the bathroom. You do not need assistance with transferring and walking. You need total assistance for meal preparation and laundry, light housekeeping, shopping, you need some assistance managing money, managing medicines, and using the telephone. We do not see that you:

- Any change in your condition.
- Do not have enough care.
- No risk of isolation.

You should discuss treatment options with your doctor. Decisions about the care you will have are between you and your doctor. Based on the clinical records we have, your care plan will be the same, 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly. There will be no companion care as your caregiver is able to provide companionship to you. We made this decision using clinical records and the Florida Medicaid Handbook Policy for Statewide Medicaid Managed Care Long-term Care Program.

Id.

10. On April 8, 2020, Aetna issued an NPAR upholding the termination of Petitioner's seven (7) hours per week of Homemaker services. *Id.* at 137-138. The NPAR explained as follows:

On April 7, 2020, after consideration of the information you provided to Aetna Better Health of Florida in support of your plan appeal, Aetna Better Health of Florida hereby denies your plan appeal. As a result, [Petitioner] will receive 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly, effective 4/7/2020.

Dr. Olunwa C. Ikpeazu, MD, Medical Director, Florida Board Certified in Pediatric Medicine reviewed your appeal. You have appealed to Aetna Better Health of Florida to cover 7 hours of homemaking hours that was terminated. We will not approve this request. You are currently approved to receive 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly. You live with your mother who is your caregiver and provides care to you as a direct service worker. We have records dated 12/2/19 that shows you need assistance with bathing and dressing, eating and going to the bathroom. You do not need assistance with transferring and walking. You need total assistance for meal preparation and laundry, light housekeeping, shopping, you need some assistance managing money, managing medicines, and using the telephone. We do not see that you:

- Any change in your condition.
- Do not have enough care.
- No risk of isolation.

You should discuss treatment options with your doctor. Decisions about the care you will have are between you and your doctor. Based on the clinical records we have, your care plan will be the same, 20 hours of personal care weekly, for a total of 20 hours of a home health aide weekly. We made this decision using clinical records and the Florida Medicaid Handbook Policy for Statewide Medicaid Managed Care Long-term Care Program.

Id.

11. On July 13, 2020, [REDACTED] timely requested a Fair Hearing to contest Respondent's termination of Adult Companion Care services and Respondent's termination of Homemaker services.

12. At the hearing and on the record, [REDACTED] testified that she wished to only discuss the termination of Adult Companion Care services, and not discuss the the termination of Homemaker services. [REDACTED] stated that the issue regarding the Homemaker services has been resolved.

13. At the hearing, Ms. Wingo testified that Aetna reviewed the Petitioner's care plan and determined that the Adult Companion Care services were no longer needed. Aetna determined that the Petitioner's needs can be met with the approved Personal Care hours and the approved Homemaker hours. Ms. Wingo referred to page 67 of Respondent's Composite Exhibit 1 as the Caregiver Supplemental Assessment. Ms. Wingo testified that this document captures the natural support of the Petitioner. Ms. Wingo referred to page 72 of Respondent's Composite Exhibit 1 as the Florida Medicaid program's definition of the LTC Supplemental Assessment. Ms. Wingo referred to page 73 of Respondent's Composite Exhibit 1 as the Florida Medicaid program's definition of medical necessity. Ms. Wingo referred to page 74 of Respondent's Composite Exhibit 1 as the Florida Medicaid program's definition of the Adult Companion Care. Ms. Wingo testified that [REDACTED] is already providing for the Petitioner's need for Adult Companion Care services. Ms. Wingo stated that Adult Companion Care is meant for supervision, social enrichment, and monitoring of a Medicaid recipient. Ms. Wingo testified that Adult Companion Care is not for the transportation to and from medical appointments and acting as legal representative at these medical appointments. Ms. Wingo argued that a family member should act on the Petitioner's behalf at these appointments. Ms. Wingo argued that Petitioner's natural support of [REDACTED] meets Petitioner's needs for Adult Companion Care.

14. At the hearing, Dr. Ikpiazu testified Aetna based their decision on the Petitioner's needs, Petitioner's current services, and the support provided by [REDACTED]. Dr. Ikpiazu referred to page 96 of Respondent's Composite Exhibit 1, where the Florida Medicaid Home Health Visits Coverage Policy prohibits "companion sitting or leisure activities." See section 5.2 of the Florida Medicaid Home Health Visits Coverage Policy.

15. At the hearing, [REDACTED] testified that the Adult Companion Care services are for the Petitioner's need, not [REDACTED]'s need. [REDACTED] testified that the Adult Companion Care services were previously used to transport the Petitioner to his therapy appointments three times per week, and the Petitioner's doctor appointments.

CONCLUSIONS OF LAW

16. The Agency's Office of Fair Hearings has jurisdiction over the subject matter of this proceeding and the parties pursuant to Florida Statutes ("Fla. Stat.") § 409.285(2) (2019). This order is the final administrative decision of AHCA under Fla. Stat. § 409.285(2)(a).

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

18. The burden of proof in this proceeding is governed by Fla. Admin. Code R. 59G-1.100(17)(g), which provides as follows:

The burden of proof is on the party asserting the affirmative of an issue, except as otherwise required by statute. **The burden of proof is on the Agency or plan, whichever is applicable, when the issue presented is the suspension, reduction, or termination of a previously authorized service.** The burden of proof is on the recipient or enrollee, when the issue presented is the denial or a limited authorization of a service. The party with the burden of proof shall establish its position to the satisfaction of the Hearing Officer by a preponderance of the evidence.

(Emphasis added).

19. Because Respondent terminated existing services, the burden of proof is on the Petitioner. See Fla. Admin. Code R. 59G-1.100(17)(g). The standard of proof in an administrative hearing is a preponderance of the evidence. *Id.* The preponderance of the evidence standard requires proof by “the greater weight of the evidence” (Black’s Law Dictionary at 1201, 7th Ed.).

20. The LTC Policy, incorporated by reference in Fla. Admin. Code R. 59G-4.192, governs LTC services available to eligible Medicaid recipients in the State of Florida. See Respondent’s Composite Exhibit 1, pages 69-91.

21. The 701B Comprehensive Assessment is, “an individualized, complete assessment of an individual’s medical, developmental, behavioral, social, financial, and environmental status. . . . to determine eligibility for the LTC program based on the need for a nursing facility level of care.” § 1.3.5 of the LTC Policy.

22. Natural Supports are, “[u]npaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.” § 1.3.16 of the LTC Policy.

23. The LTC Coverage Policy defines ADLs and IADLs as follows:

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
- Medication management
- Money management
- Personal hygiene
- Transportation
- Using the telephone to take care of essential tasks (examples include paying bills and setting up medical appointments)

Respondent's Composite Exhibit 1, pages 69-91.

24. The LTC Policy states the following coverage criteria:

4.1 General Criteria

Florida Medicaid covers services that meet all of the following:

- Are determined medically necessary;
- Do not duplicate another service; and
- Meet the criteria as specified in the policy.

4.2 Specific Criteria

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

- Consistent with the type, amount, duration, frequency, and scope of services specified in an enrollee's authorized plan of care
- Provided in accordance with a goal in the enrollee's plan of care
- Intended to enable the enrollee to reside in the most appropriate and least restrictive setting

4.2.1 Home and Community-Based Supportive Services

The LTC program benefit includes coverage of the following home and community-based supportive services:

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.

Respondent's Composite Exhibit 1, pages 69-91.

25. The LTC Policy defines "Medically Necessary" or "Medical Necessity" as follows:

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.

Respondent's Composite Exhibit 1, pages 69-91.

26. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-1.010, provides definitions of commonly used terms that are applicable to all sections of Fla. Admin. Code R. 59G, unless specifically stated otherwise in a service-specific coverage policy or rule. The Definitions Policy defines Medically Necessary or Medical Necessity as:

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.

Respondent’s Termination of Adult Companion Care services

27. Petitioner is a twenty-nine (29) year old man residing in the community with his primary caregiver, Petitioner’s Authorized Representative. *See supra* ¶ 2. Petitioner has partial paralysis, hemiplegia (right side dominant), constant bladder incontinence, and constant bowel incontinence. *See supra* ¶ 2. Petitioner’s Authorized Representative does not work outside of the home. *See supra* ¶ 3. Petitioner currently receives seven (7) hours per week of Homemaker

services and twenty (20) hours per week of Personal Care services. *See supra* ¶ 6. Respondent argued that the Adult Companion Care services, at issue, were no longer medically necessary because Petitioner’s primary caregiver, does not work outside of the home and can provide natural support for Petitioner’s need for supervision. *See supra* ¶ 13-14. In addition, Respondent based its medical necessity determination regarding Adult Companion Care services on the current 701-B Comprehensive Assessment. *See supra* ¶ 13-14. Further, Respondent argued that Adult Companion Care services are not for the transportation to and from therapy or medical appointments. *See supra* ¶ 13-14.

28. To be medically necessary, a service must meet the five criteria set forth in section 1.3.14 of the LTC Policy. Based on Ms. Wingo’s testimony at the hearing, Respondent terminated Petitioner’s Adult Companion Care services for not meeting the following medical necessity standard: must be individualized, specific, consistent with symptoms or diagnosis of illness or injury and not be in excess of the patient’s needs. *See supra* ¶ 10, 13-14.

29. Adult Companion Care is, “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* ¶ 24. The LTC Policy covers the Adult Companion Care services at issue if they are determined to be medically necessary. *See supra* ¶ 24. To be medically necessary, the LTC Policy and the Definitions Policy both require that the Adult Companion Care services at issue 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.” *See supra* ¶ 25-26. The record indicates that Adult Companion Care services are not individualized and specific to any symptoms, diagnosis, or injury. Respondent asserted that Petitioner’s primary caregiver and

mother, Petitioner's Authorized Representative, does not work outside of the home and can provide for Petitioner's need for supervision and social enrichment. See supra ¶ 13-14. The 701-B Comprehensive Assessment indicates that the Petitioner needs assistance with ADLs and IADLs. However, the 701-B Comprehensive Assessment does not indicate that the Petitioner is in need of supervision, or in need of social enrichment. See supra ¶ 4-5. Petitioner's Authorized Representative argued that the Adult Companion Care services should be reinstated to transport the Petitioner to therapy sessions three times per week, and various medical appointments. Petitioner's Authorized Representative also argued that Petitioner needs assistance with toileting during these appointments. See supra ¶ 15. Respondent argued that Adult Companion Care is not implemented for these reasons that Petitioner's Authorized Representative stated, which is supported by the LTC Policy's description of Adult Companion Care. See supra ¶ 13-14, 24. Based on the record, Respondent has demonstrated that Adult Companion Care services at issue (thirteen (13) hours per week) were in excess of the Petitioner's needs at this time. Thus, the Petitioner does not meet criterion number two for medical necessity.

30. Accordingly, upon consideration of Respondent's Composite Exhibit 1, both parties' sworn testimony, the LTC Policy, and the Definitions Policy, the undersigned Hearing Officer concludes that Respondent has shown by a preponderance of the evidence that Respondent's termination of Adult Companion Care services was correct.

Respondent's Termination of Homemaker services

31. Pursuant to Fla. Admin. Code R. 59G-1.100(9)(b)(6), the Hearing Officer is authorized to dismiss a request for a Fair Hearing because it is moot.

32. The Florida Supreme Court explained in *Godwin v. State*, 593 So.2d 211 (1992) (citing *Dehoff v. Imeson*, 153 Fla. 553 (1943)) that “[a]n issue is moot when the controversy has been so fully resolved that a judicial determination can have no actual effect. . . A case is ‘moot’ when it presents no actual controversy or when the issues have ceased to exist.” See also *J.W. v. Agency for Health Care Admin.*, 178 So. 3d 542, 544–45 (Fla. 1st DCA 2015) (explaining that because J.W. received the requested treatment, “DCF was correct to dismiss J.W.’s fair hearing request under these circumstances because, once he received the continued psychiatric treatment he’d asked for, *he* no longer needed agency review of Magellan’s decision not to authorize the treatment. Rather, the issue at that point became whether Flagler Hospital could be paid by Medicaid for the services it had rendered *without prior authorization.*”) (Emphasis in original).

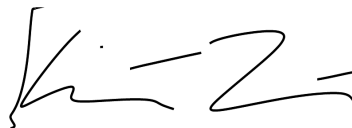
33. Petitioner’s Authorized Representative testified that she wished to only discuss the termination of Adult Companion Care services, and did not want to discuss the the termination of Homemaker services at the Fair Hearing because the issue regarding the Homemaker services has been resolved. Petitioner’s Authorized Representative did not present any evidence or testimony indicating that there are any additional issues that the Office of Fair Hearings has jurisdiction to address regarding this specific termination of Homemaker services. The undersigned finds that an actual controversy no longer exists regarding Homemaker services.

DECISION

Respondent’s termination of Adult Companion Care services services is **AFFIRMED**.
Petitioner’s request for relief is hereby is **DENIED**.

Petitioner's Fair Hearing request regarding Respondent's termination of Homemaker services services is hereby deemed moot, and the matter in AHCA Case Number 20-FH [REDACTED] is now closed.

DONE AND ORDERED this 13th day of October, 2020, in Tallahassee, Leon County, Florida.



Digitally signed by Kristopher León
Reason: 20-FH [REDACTED]; 20-FH [REDACTED]
Date: 2020.10.13 07:46:12 -04'00'

KRISTOPHER LEÓN, 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.

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