



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

FILED

Oct 05, 2020, 8:42 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 Medicaid Fair Hearing in the above styled case on September 10, 2020, at [REDACTED]

[REDACTED]

APPEARANCES

For the Petitioner: [REDACTED]

Petitioner's Authorized Representative

For the Respondent: Debra Wingo

Director of Long-Term Care
Aetna Better Health of Florida, Inc.

STATEMENT OF ISSUE

The first issue is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of an additional 10 hours per week of personal care services was incorrect.

The second issue is whether Petitioner proved by a preponderance of the evidence that Respondent's denial of an additional 5 hours per week of homemaker services was incorrect.

PRELIMINARY STATEMENT

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

Debra Wingo ("Ms. Wingo"), Director of Long-Term Care ("LTC"), appeared on behalf of Respondent, Aetna Better Health of Florida, Inc. ("Aetna" or "Respondent") and provided testimony on behalf of Respondent. Dr. Olunwa Ikpeazu ("Dr. Ikpeazu"), Medical Director for Aetna, appeared as a witness for Respondent and offered testimony on behalf of Respondent. Damaris Segura, Manager of Grievances and Appeals for Aetna, also appeared on Respondent's behalf, but did not provide testimony.

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

Prior to the hearing, Petitioner did not send to the Office of Fair Hearings and Respondent an evidence packet. Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a 111-page evidence packet. The packet included the following: Respondent's Medicaid Fair Hearing and Appeal Document Checklist; the Acknowledgement of Medicaid Fair

Hearing Request, filed July 21, 2020; the Notice of Adverse Benefit Determination (“NABD”), dated June 11, 2020; a letter to Petitioner from Aetna, dated July 1, 2020; the Notice of Plan Appeal Resolution (“NPAR”), dated July 14, 2020; the Comprehensive LTSS Plan of Care (“care plan”), signed July 22, 2020; the Florida Department of Elder Affairs – 701B Comprehensive Assessment (“701B”), dated July 15, 2020; Aetna’s Caregiver Supplemental Assessment, completed on December 6, 2019; the Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (March 2017) (“SMMC LTC Policy”); the Florida Medicaid Home Health Visit Services Coverage Policy (November 2016) (“HHV Coverage Policy”); and the Florida Medicaid Personal Care Services Coverage Policy (November 2016) (“PC Policy”). Absent an objection from Petitioner, Respondent’s 111-page evidence packet was admitted into evidence as Respondent’s Composite Exhibit 1.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a 97-page evidence packet. The packet included the following: Respondent’s Medicaid Fair Hearing and Appeal Document Checklist; the Acknowledgement of Medicaid Fair Hearing Request, filed July 21, 2020; the BAND, dated June 11, 2020; a letter to Petitioner from Aetna, dated July 1, 2020; the NPAR, dated July 14, 2020; the care plan, signed July 22, 2020; the 701B, dated July 15, 2020; Aetna’s Caregiver Supplemental Assessment, completed on December 6, 2019; the SMMC LTC Policy; and the HHV Coverage Policy. Absent an objection from Petitioner, Respondent’s 97-page evidence packet was admitted into evidence as Respondent’s Composite Exhibit 2.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Aetna’s LTC program. *See* Respondent’s Composite Exhibit 1, page 38, and Respondent’s Composite Exhibit 2, page 38. Aetna is a managed care

organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is ■■■■■ year-old female who resides in a private residence. See Respondent's Composite Exhibit 1, page 43, and Respondent's Composite Exhibit 2, page 43.

3. Petitioner has the following health conditions: allergies (seasonal); moderate anemia; arthritis (osteo); high blood pressure; broken bones (past) (vertebrae); high cholesterol; dehydration; frequent dizziness; head, brain, or spinal cord trauma (past); constant bladder incontinence; occasional bowel incontinence; osteoporosis; paralysis (face); seizure disorder (epileptic, once per week usually) past urinary tract infection ("UTI"); and dementia. See Respondent's Composite Exhibit 1, pages 49-50, and Respondent's Composite Exhibit 2, page pages 50-51.

4. The 701B reflects that Petitioner needs assistance (but not total help) with the following activities of daily living ("ADLs"): dressing, eating, using the bathroom, transferring, and walking/mobility. See Respondent's Composite Exhibit 1, page 47, and Respondent's Composite Exhibit 2, page 47. Petitioner needs total assistance with bathing. *Id.* Additionally, the 701B states the following:

Per caregiver, Member will answer the door when left alone even when instructed not to do so. Member demonstrates difficulty with comprehension.

...

Member does not know how to use a phone anymore. If someone calls, someone else has to pick up the phone, answer it place in member's hand. She has a cell phone that is kept in a pouch on her walker.

...

Per Caregiver, Member needs supervision because she is constantly moving and trying to do things she thinks she is physically able to do but cannot. She often falls, trips and hit things as a result. She often has seizures and must be supervised.

Respondent's Composite Exhibit 1, pages 45, 48 and 52, and Respondent's Composite Exhibit 2, pages 45, 48 and 52.

5. Regarding instrumental activities of daily living ("IADLs"), the 701B reflects that Petitioner requires total assistance (cannot do at all) with heavy chores, light housekeeping, managing money, preparing meals, shopping, managing medication, and transportation. See Respondent's Composite Exhibit 1, page 48, and Respondent's Composite Exhibit 2, page 48. Petitioner needs assistance (but not total help) with using the telephone. *Id.*

6. Petitioner is currently authorized to receive the following home and community-based services: 12 hours of personal care services weekly; 9 hours of homemaker services weekly; 4 hours of adult companion care services weekly; and 10 home delivered meals weekly. Respondent's Composite Exhibit 1, page 38, and Respondent's Composite Exhibit 2, page 38.

7. On June 11, 2020, Respondent issued an NABD denying Petitioner's request for an additional 10 hours per week of personal care services and denying an additional 5 hours per week of homemaker services. See Respondent's Composite Exhibit 1, page 11, and Respondent's Composite Exhibit 2, page 11. The NABD stated the reason for Respondent's determination as follows:

We made our decision because:

....

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:

- 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; and
- 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:

You have asked Aetna Better Health of Florida to cover 10 additional hours of Personal Care Services weekly and 5 additional hours of Homemaker Services weekly. We will not approve this request because you are receiving enough hours to meet your needs. You are currently getting 12 hours of Personal Care Services weekly, 9 hours of Homemaker Services weekly, and 4 hours of Adult Companion Care Services weekly, for a total of 25 hours of a Home Health Aide weekly, and 10 Home Delivered Meals weekly. You live with your caregiver. We have records dated 6/2/2020 that shows you need assistance with bathing, using the bathroom, transferring, walking/mobility, dressing and eating. You need total assistance with doing laundry, meal preparation, shopping and housekeeping; you need assistance with managing money, managing medicines, and using the telephone.

We do not see that you:

- . have had any change in your condition.
- . do not have enough care.
- . are at risk of isolation.
- . have had any recent hospitalizations.

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 new care plan will be the same, 12 hours of Personal Care Services weekly, 9 hours of Homemaker Services weekly, and 4 hours of Adult Companion Care Services weekly, for a total of 25 hours of a Home Health Aide weekly, and 10 Home Delivered Meals weekly. We made this decision using clinical records and the Florida Medicaid Handbook Policy for Statewide Medicaid Managed Care Long-term Care Program pages 4-7.

Respondent's Composite Exhibit 1, pages 11-12, and Respondent's Composite Exhibit 2, pages 11-12.

8. Petitioner requested a plan appeal regarding Respondent's denial of additional 10 hours per week of personal care services and the denial of an additional 5 hours per week of homemaker services. On July 14, 2020, Respondent sent Petitioner an NPAR, denying Petitioner's plan appeal. See Respondent's Composite Exhibit 1, page 30, and Respondent's Composite Exhibit 2, page 30. The NPAR stated as follows:

On June 30, 2020 we received your timely plan appeal request regarding Aetna Better Health of Florida's Notice of Adverse Benefit Determination dated June 11, 2020, NABD Number [REDACTED], denying 10 additional hours of Personal Care Services weekly and 5 additional hours of Homemaker Services weekly provided to [Petitioner].

On July 13, 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 not receive 10 additional hours of Personal Care Services weekly and 5 additional hours of Homemaker Services weekly, effective 7/14/2020.

Dr. Avril Anthony-Wilson, MD, Medical Director, Florida Board Certified in Family Medicine reviewed your appeal. You appealed Aetna Better Health of Florida to cover 10 additional hours of Personal Care Services weekly and 5 additional hours of Homemaker Services weekly. We will not approve this request because you are receiving enough hours to meet your needs. At present, you get 12 hours of Personal Care Services weekly, 9 hours of Homemaker Services weekly, and 4 hours of Adult Companion Care Services weekly, for a total of 25 hours of a Home Health Aide weekly, and 10 Home Delivered Meals weekly. You live with your caregiver. We have records dated 6/2/2020 that show you need assistance with bathing, using the bathroom, transferring, walking/mobility, dressing and eating. You need total assistance with doing laundry, meal preparation, shopping and housekeeping; you need assistance with managing money, managing medicines, and using the telephone.

We do not see that you:

- . have had any change in your condition.
- . do not have enough care.
- . are at risk of isolation.
- . have had any recent hospitalizations.

Based on the clinical records we have; your new care plan will be the same, 12 hours of Personal Care Services weekly, 9 hours of Homemaker Services weekly, and 4 hours of Adult Companion Care Services weekly, for a total of 25 hours of a Home Health Aide weekly, and 10 Home Delivered Meals weekly. We made this decision using clinical records and the Florida Medicaid Handbook Policy for Statewide Medicaid Managed Care Long-term Care Program pages 4-7.

Respondent's Composite Exhibit 1, pages 30-31, and Respondent's Composite Exhibit 2, pages 30-31.

9. On July 15, 2020, Petitioner requested a Fair Hearing due to the denial of additional 10 hours per week of personal care services and the denial of an additional 5 hours per week of homemaker services. On August 11, 2020, the undersigned scheduled the Fair Hearing for September 10, 2020, at [REDACTED], and all parties were duly notified.

10. [REDACTED] is Petitioner's daughter and primary caregiver. Petitioner resides in the home with [REDACTED]. [REDACTED] is retired and does not work outside the home. Petitioner has Alzheimer's Disease and dementia, and is combative when [REDACTED] tries to assist her. [REDACTED] is requesting the additional hours of personal care services and homemaker services, as she believes that she needs the additional hours during the day. [REDACTED] gets up at night to assist Petitioner and check to see if Petitioner is choking or having a seizure. Petitioner does not use a bedside toilet, and gets up several times per night to use the bathroom with [REDACTED]'s assistance. [REDACTED] explained that she needs the additional hours in the day, so she can get some rest during the day and do the things that she needs to do.

11. Ms. Wingo is the Director of LTC for Aetna. Ms. Wingo explained that regarding the hours that have been approved, they can be reallocated (with regards to the dates and times the services are provided) at Petitioner's discretion to meet her needs. Once services are authorized, Petitioner can adjust times the services are provided to meet her needs.

12. Dr. Ikpeazu is the Medical Director for Aetna. Dr. Ikpeazu reviewed all documentation submitted to Aetna in this case. It is Dr. Ikpeazu's professional opinion that Aetna's denial of the additional 10 hours per week of personal care services and the additional 5 hours per week of homemaker services was appropriate. In making its determination to deny Petitioner's request, Respondent considered the amount of assistance Petitioner needs with ADLs and IADLs, and who resides in the home with Petitioner. Dr. Ikpeazu explained that Respondent assumes that [REDACTED] will be able to do at least some of the laundry, prepare some of Petitioner's meals when she prepares her own, and do some of Petitioner's shopping when she does her own.

CONCLUSIONS OF LAW

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

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

15. 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.

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

17. The Florida Medicaid policy that applies to the requested services is the SMMC LTC Policy.

The Agency’s SMMC LTC Policy has been incorporated, by reference, into Florida Administrative Code Rule 59G-4.192. The SMMC LTC Policy provides as follows:

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 Definitions

The following definitions are applicable to this policy. For additional definitions that are applicable to all sections of Rule Division 59G, F.A.C., please refer to the Florida Medicaid definitions policy.

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

...

1.3.5 701-B Comprehensive Assessment

An individualized, complete assessment of an individual’s medical, developmental, behavioral, social, financial, and environmental status. The assessment is conducted by a trained individual employed by the Department of Elder Affairs Comprehensive Assessment and Review for Long-Term Care Services (CARES) program or the LTC plan, to determine eligibility for the LTC program based on the need for a nursing facility level of care.

...

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)

...

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.

...

2.2 Who Can Receive

Florida Medicaid recipients requiring medically necessary LTC services who are enrolled in a LTC plan and have a nursing facility level of care determined by the CARES program. Some services may be subject to additional coverage criteria as specified in section 4.0.

...

4.0 Coverage Information

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 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.

...

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.

...

4.2.1.8 Home Delivered Meals

The provision of nutritionally sound meals delivered to an enrollee's home when an enrollee has difficulty shopping for, or preparing food, without assistance. All meals must provide a minimum of 33 1/3% of the current Dietary Reference Intake. The meals must meet the current Dietary Guidelines for Americans, the United States Department of Agriculture My Pyramid Food Intake Pattern and reflect the predominant statewide demographic.

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.

...

4.2.1.15 Respite Care

The provision of services on a short-term basis due to the absence of, or need to relieve, the enrollee's natural supports on a planned or an emergency basis.

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.

...

6.0 Documentation

...

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.

SMMC LTC Policy, pages 1-8.

18. The Florida Medicaid Definitions Policy (August 2017) (“Definitions Policy”), which is incorporated by reference in Fla. Admin. Code R. 59G-1.010, defines “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.

19. In the instant case, Respondent denied Petitioner's request for an additional 10 hours per week of personal care services and an additional 5 hours per week of homemaker services. See supra ¶ 7 and 8. As established on the record by the evidence and testimony, Respondent denied Petitioner's request, because the documentation submitted in support of Petitioner's request failed to establish that the requested services were medically necessary. See supra ¶ 7 and 8.

20. Section 4.1 of the SMMC 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 ¶ 17. Section 4.2.2.6 of the LTC Policy reflects that personal care services are "[t]o 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." *Id.* Pursuant to Section 4.2.1.9 of the SMMC LTC Policy homemaker services are for the "[t]he 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. *Id.*

21. The evidence presented in this case does not reflect that Petitioner is in need of an additional 10 hours per week of personal care services and an additional 5 hours per week of homemaker services. Specifically, regarding ADLs, Petitioner needs: assistance (but not total help) with dressing, eating, using the bathroom, transferring, and walking/mobility; and total

assistance with bathing. *See supra* ¶ 4. Regarding IADLs, Petitioner needs: total assistance (cannot do at all) with heavy chores, light housekeeping, managing money, preparing meals, shopping, managing medication, and transportation; and assistance (but not total help) with using the telephone. *See supra* ¶ 5. Petitioner has Alzheimer's Disease, dementia, and difficulty with comprehension. *See supra* ¶ 4. Petitioner needs supervision, as she often falls and has seizures. *Id.* However, Petitioner resides in the home with [REDACTED] who is her primary caretaker. *See supra* ¶ 10. [REDACTED] is retired, and does not work outside the home. *Id.* Given that Petitioner resides with her daughter and already receives home and community-based services, *supra* ¶ 6, Respondent's assumption – that [REDACTED] can do at least some of Petitioner's laundry, prepare some of Petitioner's meals when she ([REDACTED]) prepares her own, and do some of Petitioner's shopping when she does her own – appears to be reasonable under the circumstances of this case. *See supra* ¶ 12. Although [REDACTED] gets up at night to assist Petitioner with using the bathroom and check to see if Petitioner is choking or having a seizure, *supra* ¶ 10, [REDACTED] offered no substantive testimony on how the denial of the additional personal care services and additional homemaker services will impact Petitioner's ability to manage her ADLs and IADLs. Further, Petitioner provided no evidence (e.g., a daily schedule, a schedule of ADLs and IADLs, the amount of time needed for *each* ADL and IADL) to justify the approval of the additional 10 hours per week of personal care services and the additional 5 hours per week of homemaker services. Based upon the evidence presented by both parties, Petitioner failed to establish that the requested personal care services and homemaker services are warranted in this case.

22. Section 1.3.14 of the SMMC LTC Policy 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 ¶ 17. It should be noted that Petitioner is currently authorized to receive the following home and community-based services: 12 hours of personal care services weekly; 9 hours of homemaker services weekly; 4 hours of adult companion care services weekly; and 10 home delivered meals weekly. See supra ¶ 6. Regarding the hours that have been approved, they can be reallocated (with regards to the dates and times the services are provided) at Petitioner’s discretion to meet her needs. See supra ¶ 11. Considering the SMMC LTC Policy’s definitions for adult companion care services, homemaking services, home delivered meals, and personal care services, supra ¶ 17, Petitioner did not demonstrate that her aforementioned needs, supra ¶ 3, 4, 5, 10, and 21, are not sufficiently met by her currently authorized services. Further, given that Petitioner failed to establish that the additional personal care services and homemaker services are warranted in this matter, supra ¶ 21, the requested personal care services and homemaker services are “in excess of [Petitioner’s] needs.” See supra ¶ 17.

23. ██████████ explained that she needs the additional hours in the day, so she can get some rest during the day and do the things that she needs to do. See supra ¶ 10. However, section 1.3.14 of the SMMC LTC Policy requires that the requested services must “[b]e furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.” See supra ¶ 17. As stated above, Petitioner is already authorized to receive home and community-based services. See supra ¶ 22. Petitioner can adjust times the services are provided to meet her needs. See supra ¶ 12.

24. In light of the both parties' testimony and evidence, the SMMC LTC Policy, and the Definitions Policy, the undersigned Hearing Officer finds that Petitioner failed to meet her burden of proving that the additional 10 hours per week of personal care services and additional 5 hours per week of homemaker services are medically necessary. Accordingly, the undersigned Hearing Officer finds that Petitioner failed to prove by a preponderance of the evidence that Respondent's denial of the additional personal care services and homemaker services was incorrect.


DECISION

Respondent's denial of an additional 10 hours per week of personal care services is **AFFIRMED**.

Respondent's denial of an additional 5 hours per week of homemaker services is **AFFIRMED**.

Petitioner's appeals based on Respondent's denial in this matter are **DENIED**.

DONE AND ORDERED this 5th day of October, 2020, in Tallahassee, Leon County, Florida.

 Tracie Hardin
20-FH[REDACTED] & 20-FH[REDACTED]
2020.10.05 07:06:56
-04'00'

TRACIE HARDIN, Hearing Officer
Agency for Health Care Administration
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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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**AHCA Medicaid Hearing Unit
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