



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

**FILED**

Oct 13, 2020, 8:16 am

OFFICE OF FAIR HEARINGS

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PETITIONER,

AHCA Case No.: 20-FH █

Plan ID No.: █

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

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AHCA Case No.: 20-FH █

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RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, the undersigned convened a telephonic Fair Hearing on the instant case on September 14, 2020, at █

**APPEARANCES**

For the Petitioner:

█

Petitioner

For the Respondent:

Maria Mojica  
Compliance Specialist  
Sunshine State Health Plan, Inc.

**STATEMENT OF ISSUES**

By agreement of the parties at the Fair Hearing, the issues are as follows:

PRR0000522

The first issue is whether Respondent proved by a preponderance of the evidence that Respondent's reduction of personal care services from twenty-eight (28) hours per week to twenty-one (21) hours per week was correct.

The second issue is whether Respondent proved by a preponderance of the evidence that Respondent's reduction of homemaker services from twelve (12) hours per week to five (5) hours per week was correct.

### **PRELIMINARY STATEMENT**

All parties and witnesses appeared telephonically. Petitioner appeared and testified at the Fair Hearing.

Maria Mojica ("Ms. Mojica"), Compliance Specialist for Sunshine State Health Plan, Inc. ("Sunshine" or "Respondent"), represented Respondent at the hearing. Dr. Sapnalaxmi Amin ("Dr. Amin"), Medical Director for Sunshine, appeared as a witness for Respondent. The following individuals appeared as witnesses on behalf of Respondent, but did not testify: Stephanie Gunning, Case Management Supervisor for Sunshine; Alsheneeka Williams, Care Coordinator Supervisor for Sunshine; Erika Colone, Care Coordinator for Sunshine; and Melissa Layne, Senior Manager for Quality Improvement for Sunshine.

Marielisa Amador, Program Analyst for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared for observational purposes.

Interpreter Joseph, translator number 353628 with Language Line Solutions, appeared for the hearing and provided translation services on behalf of Petitioner. The Petitioner dismissed the interpreter during the Fair Hearing because she did not need interpreter services.

The Petitioner presented no exhibits at the Fair Hearing. Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a one hundred and seven (107)-page evidence packet. The evidence packet consisted of the following documents: the Medicaid Fair Hearing Table of Content; Medicaid Fair Hearing Summary, dated July 24, 2020; Notice of Adverse Benefit Determination (“NABD”), dated June 26, 2020; Long Term Care Person-Centered Care Plan (“LTC Plan”), dated June 19, 2020; LTC Plan dated July 27, 2020; Florida Department of Elder Affairs 701B Comprehensive Assessment (“701B Assessment”), dated June 22, 2020; Request for an Appeal or Grievance Form, dated July 7, 2020; letter from [REDACTED], dated [REDACTED] 2020; illegible page from [REDACTED]; Expedited Appeal Acknowledgement, dated July 15, 2020; Notice of Plan Expedited Appeal Resolution (“NPAR”), dated July 16, 2020; the Sunshine Health Policy and Procedure LT.UM.09; the Sunshine Health Policy and Procedure LT.UM.10; and Florida Administrative Code Rule (“Fla. Admin. Code R.”) 59G-1.010(166). Absent an objection from Petitioner, the undersigned admitted the one hundred and seven (107)-page evidence packet into evidence as Respondent’s Composite Exhibit 1.

#### **FINDINGS OF FACT**

1. Petitioner is an enrolled member of Sunshine. See Respondent’s Composite Exhibit 1 at page 14. Sunshine is a managed care organization contracted by the Agency to provide services to eligible Medicaid recipients in Florida.
2. Petitioner is a 66-year old with a history of Gastroesophageal Reflux Disease (“GERD”), bladder and bowel incontinence, Chronic Obstructive Pulmonary Disease (“COPD”), respiratory failure, ulcerative colitis, osteomyelitis, chronic pain, and hernia. *Id.* at 37 - 39. She is on 4 Liters of oxygen per minute. *Id.* at 39. Petitioner lives with her adult son who is a full time medical

student. *Id.* at 14 and 33. Petitioner's husband recently moved to [REDACTED] on a permanent basis. *Id.* at 32 and 37. Petitioner has a daughter who lives nearby and visits several times weekly. *Id.* at 33. Petitioner is morbidly obese. *Id.* at 16. Petitioner has a colostomy bag and she needs to lose 100 pounds before her surgeon will remove it. *Id.* at 16, 36 and 43. Petitioner has experienced some forgetfulness and was referred to a neurologist, but she does not currently need supervision. *Id.* at 34 and 41.

3. Regarding Activities of Daily Living ("ADLs"), Petitioner needs assistance (but not total help) with bathing. *Id.* at 36. Petitioner needs no assistance with dressing, eating, and transferring. *Id.* Petitioner uses an assistive device for using the bathroom and walking/mobility. *Id.* Petitioner has frequent accidents associated with bowel incontinence that require clean-up and additional laundry. *Id.* at 17 and 37. She has frequent bladder leakage. *Id.* at 39. Petitioner always has assistance with her ADLs when needed. *Id.* at 36.

4. Regarding Instrumental Activities of Daily Living ("IADLs"), Petitioner needs total assistance (cannot do at all) with heavy chores. *Id.* Petitioner needs assistance (but not total help) with light housekeeping, preparing meals and shopping. *Id.* Petitioner needs no assistance with using the telephone, managing money, managing medication, and using transportation. *Id.* Petitioner is unable to do heavy lifting. *Id.* at 26. Petitioner always has help with her IADLs when needed. *Id.* at 37.

5. On June 26, 2020, Respondent issued an NABD reducing Petitioner's personal care services and homemaker services. *Id.* at 4. The NABD stated the reason for the reduction as follows:

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

...

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

1. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
2. Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide; and
3. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider;

And one of the following:

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

...

The facts that we used to make our decision are: Based on the assessment of the members care needs and household and caregiver status, Sunshine Health will reduce Personal Care from 28 hours/week to 10 hours/week, which is a reduction of 18 hours per week.

Sunshine Health will reduce the Homemaker Services from 12 hours/week to 5 hours/week, which is a reduction of 7 hours per week.

Sunshine Health will reduce Disposable Underpads from 1 case/month to 1 case/quarter (1 case/ 3 months).

This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria, and Sunshine Health Policy LT.UM.10 LTC (Long Term Care) Durable Medical Equipment (DME)/Supplies/Orthotics & Prosthetics (O&P) Criteria.

*Id.* at 5.

6. On July 10, 2020, [REDACTED] APRN, authored a letter on behalf of Petitioner's provider, [REDACTED], concerning Petitioner's medical conditions. *Id.* at 44 and 51. The letter states:

[Petitioner] suffer[s] from chronic conditions such as asthma, COPD, osteoporosis, sleep apnea, HTN, heart failure and on oxygen. Pt is wheel chair dependent, not

able to take care of self and needs 40 hours home health assistance for ADL, colostomy management. Pt also need assistance in medication management.

*Id.* at 51.

7. Petitioner requested an expedited plan appeal. On July 16, 2020, Sunshine partially denied Petitioner's plan appeal. *Id.* at 60 - 62. The NPAR explained Respondent's decision as follows:

On July 16, 2020, after consideration of the information you provided to Sunshine Health in support of your expedited plan appeal, Sunshine Health hereby PARTIALLY DENIES your plan appeal. As a result, [Petitioner] will not receive 28 hours per week of personal care (the person who helps bathe and dress you), 12 hours per week of homemaker service (the person who cleans for you) and 1 case per month of disposable underpads/chux (pad for the bed or chair that can be thrown away after use), effective July 16, 2020.

The reason for our decision was: Based on the assessment of the member's care needs and household and caregiver status, the reductions of home services and supplies is partially overturned. Sunshine Health will now overturn the termination of 11 hours/week of Personal Care Services (and will maintain the termination of the remaining 7 hours/week of Personal Care Services) for an updated care plan to include 21 hours/week of Personal Care Services; and will uphold the reduction of Homemaker Services from 12 hours/week to 5 hours/week (which is a reduction of 7 hours per week); and will uphold the reduction of Disposable Underpads from 1 case/month to 1 case/quarter (which is 1 case/ 3 months). This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria, and Sunshine Health Policy LT.UM.10 LTC (Long Term Care) Durable Medical Equipment (DME)/Supplies/Orthotics & Prosthetics (O&P) Criteria.

*Id.* at 60. As a result of Petitioner's appeal, Petitioner's care plan includes 21 hours per week of personal care services (a reduction of 7 hours per week) and 5 hours per week of homemaker services (a reduction of 7 hours per week).

8. At the hearing, Dr. Amin testified that she reviewed Petitioner's medical history and current health conditions. She argued that Petitioner's personal care hours were reduced from 28 hours per week to 21 hours per week because the services are in excess of Petitioner's medical

needs based on Petitioner's ADLs and IADLs. She testified that Sunshine added 11 hours of personal care services back into Petitioner's care plan when Petitioner's husband moved to [REDACTED] and in consideration of Petitioner's son being a full-time medical student. She asserted that Petitioner's daughter is able to assist with shopping because she visits Petitioner a few times a week.

9. Petitioner testified that she is morbidly obese, on 4 Liters of oxygen per minute, and using a colostomy bag. She argued that her son is unable to assist her because he is a full-time medical student. Petitioner testified that she must lose one-hundred (100) pounds before her doctor will approve surgery to get rid of her colostomy bag. Petitioner stated that she is on a diet and experiences frequent bowel incontinence, which requires additional cleaning and laundry. Petitioner asserts that she experiences occasional memory loss.

#### **CONCLUSIONS OF LAW**

10. 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).

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

12. Because Respondent is reducing Petitioner's personal care services and homemaker services, Fla. Admin Code R. 59G-1.100(17)(g) assigns the burden of proof to Respondent. The standard of proof in an administrative hearing is a preponderance of the evidence. The preponderance of the evidence standard requires proof by "the greater weight of the evidence." (Black's Law Dictionary at 1201, 7th Ed.)

13. 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:

...

#### **4.2.2.5 Medical Equipment and Supplies**

In accordance with Rule 59G-4.070, F.A.C. This service includes the provision of medical equipment and supplies specified in the plan of care, including: devices, controls, or appliances that enable the enrollee to increase the ability to perform activities of daily living; devices, controls, or appliances that enable the enrollee to perceive, control, or communicate with the environment in which he or she lives; items necessary for life support or to address an enrollee's physical conditions, along with ancillary supplies and equipment necessary to the proper functioning of such items; such other durable and non-durable medical equipment not available under the State Plan that is necessary to address enrollee needs, including consumable medical supplies, such as adult diapers; and repair of such items or replacement parts.

...

#### **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.

14. 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.

15. The Florida Medicaid Definitions Policy (August 2017) ("Definitions Policy"), incorporated by reference in Fla. Admin. Code R. 59G-1.010, defines "Medically Necessary" or "Medical Necessity" as follows:

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 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.

16. LT.UM.09 provides as follows in regards to homemaker and personal care services:

### **6. Homemaker Services**

Homemaker provides assistance with essential shopping, light housework, laundry, and meal preparation. These services are provided to members who exhibit a functional deficit that impairs their ability to complete these tasks and lack an available support system. Services are provided to support member's health, safety, and ensure basic standards are met. Services are provided by a trained homemaker when the individual regularly responsible for these services is temporarily absent or unable to manage these activities.

Approval Criteria

Homemaker Service reviews include four (4) criteria:

- a) Instrumental Activity of Daily Living (IADL) limitations
- b) Living situation
- c) Supervision needs
- d) Available Supports

See Section C.1 for more details

...

### **7. Personal Care Services**

A service that provides assistance with eating, bathing, dressing and personal hygiene, and other activities of daily living. The service includes assistance with preparation of meals, but does not include the cost of meals. The service may also include housekeeping tasks such as bed making, dusting and vacuuming, which are incidental to the care furnished or are essential to the health and welfare of the member, rather than the member's family. Personal care services include the following:

- a. Assistance to the member to complete personal hygiene (bathing, grooming, mouth care, etc.)
- b. Assistance with bladder and bowel requirements that include assisting the member to and from the bathroom or with bedpan routines
- c. Assisting the member in following through with physician orders

The Personal Care provider cannot not administer any medications, but may bring medications to the member and remind the member to take the medicine at specific times

d. Assisting with food, nutrition, and diet activities, including preparing meals, when required and other incidental services, (i.e. housekeeping chores) essential to the health and welfare of the member

e. Performing household services (changing bed linen or arranging furniture), when such services are essential to the member's health and comfort.

*Id.* at 78 and 84.

### **Personal Care Services**

17. In the instant case, Respondent reduced Petitioner's personal care services from 28 hours per week to 21 hours per week. *See supra* ¶ 5 and 7. As established on the record by the evidence and testimony, Respondent reduced personal care services, because the documentation submitted in support of Petitioner's request failed to establish that the requested services were medically necessary. *See supra* ¶ 5 and 7.

18. Section 4.1 of the LTC Policy provides that Florida Medicaid LTC plans cover services that: are medically necessary, as defined in the LTC Policy; do not duplicate another service; and meet the criteria as specified in the LTC Policy. *See supra* ¶ 13. 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." *See supra* ¶ 13.

19. The evidence presented in this case reflects that Respondent's reduction of personal care services is warranted under the circumstances of this case. Specifically, regarding ADLs, Petitioner needs assistance (but not total help) with bathing. *See supra* ¶ 3. Petitioner needs no assistance with dressing, eating, and transferring. *See supra* ¶ 3. Petitioner uses an assistive device for using the bathroom and walking/mobility. *See supra* ¶ 3. Petitioner has frequent accidents associated

with bowel and bladder incontinence. *See supra* ¶13. Regarding IADLs, Petitioner needs total assistance (cannot do at all) with heavy chores. *See supra* ¶ 4. Petitioner needs assistance (but not total help) with light housekeeping, preparing meals and shopping. *See supra* ¶ 4. Petitioner needs no assistance with using the telephone, managing money, managing medication, and using transportation. *See supra* ¶ 4. Petitioner is unable to do heavy lifting. *See supra* ¶ 4. Further, the record reflects that Respondent “overturn[ed] the termination of 11 hours/week of Personal care services” in recognition of the fact that Petitioner’s husband moved to [REDACTED] [REDACTED] and her son is a full time medical student. *See supra* ¶ 7 - 8. Based upon the evidence presented by both parties, Respondent established that the reduction of personal care services is warranted in this case.

20. Additionally, section 1.3.14 of the LTC Policy requires that “LTC supportive 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* ¶ 14. Considering the LTC Policy’s definition for personal care services, *supra* ¶ 13, Respondent demonstrated that Petitioner’s aforementioned needs, *supra* ¶ 2 – 4, 6, and 8 - 9, are sufficiently met by her currently authorized services. Given that Respondent established that the reduction of personal care services is warranted in this matter, *supra* ¶ 19, the requested 28 hours per week of personal care services is “in excess of [Petitioner’s] needs.” *See supra* ¶ 5 and 15.

21. Appurtenant to this matter, section 1.3.14 of the LTC Policy provides that natural supports are “[u]npaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.” *See supra* ¶ 16. The record reflects that Petitioner

resides with her son and her daughter, who lives nearby, visits several times weekly. *See supra* ¶ 2. Therefore, Petitioner has natural supports available to assist with her care and needs.

22. In support of Petitioner's position, Petitioner submitted a letter from her physician's office. The letter states that Petitioner "40 hours home health assistance for ADL, colostomy management." *See supra* ¶ 6. The document offers no insight into how Petitioner's provider determined the severity of Petitioner's medical condition, nor does it prescribe the type, amount, or length of specific services warranted to address Petitioner's medical condition. Further, it should be noted that "[t]he 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." *See supra* ¶ 15. Therefore, the letter from Petitioner's provider does not, in itself, make the requested services medically necessary or a medical necessity.

23. In light of the both parties' testimony, Respondent's Composite Exhibit 1, the SMMC LTC Policy, and the Definitions Policy, the undersigned Hearing Officer finds that Respondent demonstrated that Petitioner's previously authorized amount of personal care services is not medically necessary.

24. Accordingly, the undersigned Hearing Officer finds that Respondent proved by a preponderance of the evidence that Respondent's reduction of personal care services was correct.

#### **Homemaker Services**

25. In the instant case, Respondent reduced Petitioner's homemaker services from 12 hours per week to 5 hours per week. As established on the record by the evidence and testimony,

Respondent reduced the homemaker services because 5 hours per week “based on an assessment of the member's care needs.” *See supra* ¶ 5.

26. 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* ¶ 13.

27. The testimony and evidence presented in this case reflect that Respondent’s reduction of homemaker services was warranted under the circumstances of this case. Specifically, Petitioner’s homemaker services failed to satisfy the medical necessity criteria which requires that the requested services must “[b]e individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient’s needs.” *See supra* ¶ 15.

28. As stated in the LTC Policy, homemaker services provide for general household activities and routine household care by a trained homemaker, “when the individual regularly responsible for these activities is temporarily absent or unable to manage these activities” [emphasis added]. *See supra* ¶ 13. The record reflects that Petitioner lives with her son who is a full time medical student, and Petitioner’s daughter visits several times per week. *See supra* ¶ 2 and 8. Petitioner’s 701B states that Petitioner needs total assistance (cannot do at all) with heavy chores. *See supra* ¶ 4. Petitioner needs assistance (but not total help) with light housekeeping, preparing meals and shopping. *See supra* ¶ 4. Petitioner needs no assistance with using the telephone, managing money, managing medication, and using transportation. *See supra* ¶ 4. Petitioner needs only “some assistance” with many of the IADLs that correspond with homemaker services, such as:

light housekeeping, preparing meals, and shopping. Petitioner only needs total assistance (cannot do at all) with heavy chores. *See supra* ¶ 4.

29. Dr. Amin testified that she reviewed Petitioner's medical history and current medical needs. *See supra* ¶ 8. Dr. Amin argued that a reduction in homemaker services is medically appropriate because Petitioner lives with her son, and Petitioner's daughter visits several times per week and is able to help with shopping. *See supra* ¶ 2 and 8. Dr. Amin testified that, in her professional opinion, Petitioner only requires seven (7) hours of homemaker services rather than the twelve (12) hours that were approved in this case. *See supra* ¶ 8.

30. In light of the fact that Petitioner lives with her son, her daughter is able to assist with shopping and Petitioner's 701B, discussed *supra* ¶ 28, Dr. Amin's testimony that 7 hours of homemaker services would be more than sufficient for Petitioner is credible. *See supra* ¶ 8. As provided above, homemaker services are intended for situations where the individuals regularly responsible for those activities are temporarily absent or unable to manage these activities, which at present, is not the case here. Based on the foregoing, Respondent has demonstrated that Petitioner's current level of homemaker services are in excess of the Petitioner's needs. As such, Respondent has shown that 12 hours per week of homemaker services are not medically necessary.

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

**IT IS THEREFORE ORDERED AND ADJUDGED THAT:**

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

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

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



Laura Gallagher  
20-FH [REDACTED] & 20-FH [REDACTED]  
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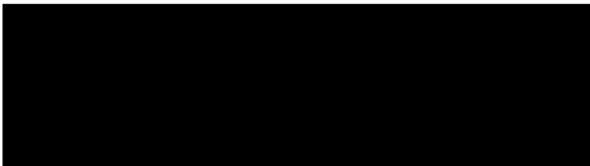
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**LAURA GALLAGHER Hearing Officer**  
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**NOTICE OF A RIGHT TO JUDICIAL REVIEW**

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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