



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

FILED

Oct 15, 2020, 8:28 am

OFFICE OF FAIR HEARINGS

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

[REDACTED]

PETITIONER,

AHCA Case No.: 20-FH [REDACTED]

Plan ID No.: [REDACTED]

vs.

SUNSHINE STATE HEALTH PLAN, INC.,

RESPONDENT.

_____ /

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic Medicaid Fair Hearing in the above styled case on September 17, 2020, at [REDACTED]

APPEARANCES

For the Petitioner:

[REDACTED]

Petitioner's Authorized Representative

For the Respondent:

Maria Mojica
Compliance Specialist
Sunshine State Health Plan, Inc.

STATEMENT OF ISSUE

The first issue is whether Respondent proved by a preponderance of the evidence that Respondent's termination of 4 hours per week of adult companion services was correct.

The second issue is whether Respondent proved by a preponderance of the evidence that Respondent's reduction of homemaker services from 17 hours per week to 14 hours per week was correct.

PRELIMINARY STATEMENT

All parties and witnesses appeared telephonically. [REDACTED] (" [REDACTED]"), Petitioner's Authorized Representative and daughter, appeared at the Fair Hearing and provided testimony on Petitioner's behalf. Petitioner appeared at the Fair Hearing and did not provide testimony.

Maria Mojica ("Ms. Mojica"), Compliance Specialist for Sunshine State Health Plan, Inc. ("Sunshine" or "Respondent") represented Respondent at the hearing. The following individuals appeared on behalf of Respondent: Dr. John Carter ("Dr. Carter"), Long Term Care ("LTC") Medical Director for Sunshine; Stephanie Farina, Care Coordinator for Sunshine; Samantha Banner, Care Coordinator Supervisor for Sunshine; Jacqueline Seaton, Manager for Case Management for Sunshine; and Melissa Layne ("Ms. Layne"), Manager for Quality Improvement for Sunshine.

Suzanne Chillari, Medical/Health Care Program Analyst for the Agency for Health Care Administration ("Agency" or "AHCA"), appeared for observational purposes.

Prior to the hearing, Petitioner sent a 35-page evidence packet to the Office of Fair Hearings. The packet included the following documents: a letter from Petitioner to the Office of Fair Hearings, dated July 31, 2020; the Notice of Plan Appeal Resolution ("NPAR") dated, April 11,

2020; the a Notice of Adverse Benefit Determination (“NABD”), dated March 4, 2020; a completed copy of Sunshine’s Request for an Appeal or Grievance Form, dated March 10, 2020; a 2-page letter from Petitioner, dated March 10, 2020; Petitioner’s medical records, dated [REDACTED] 2019; a second copy of the NPAR, dated April 11, 2020; a second copy of the NABD, dated March 4, 2020; a second copy of the completed copy of Sunshine’s Request for an Appeal or Grievance Form, dated March 10, 2020; a 1-page letter from Petitioner, dated March 10, 2020; a page of information about Sunshine’s LTC services; a letter from Sunshine to Petitioner, dated May 6, 2020; Sunshine’s Long Term Care Person-Centered Care Plan (“care plan”), signed April 24, 2020; and a copy of an envelope from Petitioner to AHCA Medica Hearing Unit. Absent an objection from Respondent, the undersigned admitted Petitioner’s 35-page evidence packet into evidence as Petitioner’s Composite Exhibit 1.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a 127-page evidence packet for AHCA case number 20-FH [REDACTED]. The packet included the following documents: the Medicaid Fair Hearing Table of Content; a Medicaid Fair Hearing Summary, dated August 21, 2020; the NABD, dated March 4, 2020; Sunshine’s care plan, signed February 10, 2020; Sunshine’s care plan, signed July 22, 2020; the Florida Department of Elder Affairs 701B Comprehensive Assessment (“701B”) with an assessment date of February 10, 2020 (the “2/10/20 701B”); the 701B with an assessment date of July 22, 2020 (the “4/22/20 701B”); a copy of an envelope from Petitioner to Sunshine, marked as received on March 16, 2020; a 2-page letter from Petitioner, dated March 10, 2020; Petitioner’s medical records, dated [REDACTED] 2019; the NPAR, dated April 11, 2020; a second copy of the NABD, dated March 4, 2020; a copy of the completed copy of Sunshine’s Request for an Appeal or Grievance Form, dated March 10, 2020;

a 1-page letter from Petitioner, dated March 10, 2020; Sunshine's Standard Appeal Acknowledgment, dated March 24, 2020; a second copy of the NPAR, dated April 11, 2020; the Sunshine Health Policy and Procedure LT.UM.09; and Fla. Admin. Code R. 59G-1.010. Absent an objection from Petitioner, the undersigned admitted Respondent's 127-page evidence packet for AHCA case number 20-FH[REDACTED] into evidence as Respondent's Composite Exhibit 1.

Prior to the hearing, Respondent sent to the Office of Fair Hearings and Petitioner a 127-page evidence packet for AHCA case number 20-FH[REDACTED]. The packet included the following documents: the Medicaid Fair Hearing Table of Content; a Medicaid Fair Hearing Summary, dated August 21, 2020; the NABD, dated March 4, 2020; Sunshine's care plan, signed February 10, 2020; Sunshine's care plan, signed July 22, 2020; the Florida Department of Elder Affairs 701B Comprehensive Assessment ("701B") with an assessment date of February 10, 2020 (the "2/10/20 701B"); the 701B with an assessment date of July 22, 2020 (the "4/22/20 701B"); a copy of an envelope from Petitioner to Sunshine, marked as received on March 16, 2020; a 2-page letter from Petitioner, dated March 10, 2020; Petitioner's medical records, dated [REDACTED] 2019; the NPAR, dated April 11, 2020; a second copy of the NABD, dated March 4, 2020; a copy of the completed copy of Sunshine's Request for an Appeal or Grievance Form, dated March 10, 2020; a 1-page letter from Petitioner, dated March 10, 2020; Sunshine's Standard Appeal Acknowledgment, dated March 24, 2020; a second copy of the NPAR, dated April 11, 2020; the Sunshine Health Policy and Procedure LT.UM.09; and Fla. Admin. Code R. 59G-1.010. Absent an objection from Petitioner, the undersigned admitted Respondent's 127-page evidence packet for AHCA case number 20-FH[REDACTED] into evidence as Respondent's Composite Exhibit 2.

FINDINGS OF FACT

1. Petitioner is an enrolled member of Sunshine's LTC plan. See Respondent's Composite Exhibit 1, page 2. Sunshine is a managed care organization contracted by AHCA to provide services to eligible Medicaid recipients in Florida.

2. Petitioner is an adult male who resides in a private residence with his wife and daughter. See Respondent's Composite Exhibit 1, page 50. Petitioner has "a diagnosis of Dementia" and has "confusion regarding specific time frames and events." *Id.* at 51. The 7/22/20 701B, which is the most recent 701B, reflects that Petitioner has the following health conditions: acid reflux; allergies; rheumatoid arthritis; high blood pressure; skin cancer (past); high cholesterol; frequent dizziness; heart problems; kidney problems; lung problems (past); and urinary tract infection (past). See Respondent's Composite Exhibit 1, pages 55 – 56. Petitioner also has "Vertigo, Stents in the heart, Heart Aneurysm, Sciatica, Dementia, Anxiety, Depression, Cataracts and Macular Degeneration." *Id.* at 56. Petitioner is not receiving "any therapies or specialty care at this time." *Id.*

3. The 7/22/20 701B reflects the following regarding Petitioner's Activities of Daily Living ("ADLs"). Petitioner needs no assistance with eating and using the bathroom. See Respondent's Composite Exhibit 1, page 53. Petitioner uses assistive devices for using the bathroom, transferring, and walking/mobility. *Id.* Petitioner needs assistance (but not total help) with bathing and dressing. *Id.*

4. Regarding Petitioner's Instrumental Activities of Daily Living ("IADLs"), 7/22/20 701B reflects that Petitioner needs assistance (but not total help) with using the telephone, shopping, managing medication, and using transportation. See Respondent's Composite Exhibit 1, page 54.

Petitioner needs total assistance (cannot do at all) with heavy chores, light housekeeping, managing money, and preparing meals. *Id.*

5. Petitioner is currently authorized to receive the following home and community-based services: 14 hours per week of personal care services; and 14 hours per week of homemaker services (not including the 3 hours of homemaker services that are the subject of this case). See Respondent's Composite Exhibit 1, page 25.

6. The letter from Petitioner, dated July 31, 2020, states that Petitioner has "vertigo that may last more than a day" *and* that from year to year, Petitioner's health conditions "do not improve but worsen." See Petitioner's Composite Exhibit 1, page 2.

7. The letter from Petitioner, dated March 10, 2020, states that Petitioner requires homemaker services for cooking, serving meals, grocery shopping, doing dishes, laundry, changing bed sheets, sweeping, dusting Petitioner's room, toilet cleaning and cleaning the refrigerator. See Petitioner's Composite Exhibit 1, pages 9-10.

8. On March 4, 2020, Respondent issued an NABD terminating 4 hours per week of adult companion services, and explaining that the "requested services are not medically necessary." See Respondent's Composite Exhibit 1, page 4. The NABD stated "[b]ased on the assessment of the member's care needs and household and caregiver status, Sunshine Health will terminate the 4 hours/week of Companion Care Services." See Respondent's Composite Exhibit 1, page 5.

9. On March 4, 2020, Respondent issued an NABD reducing homemaker services from 17 hours per week to 14 hours per week, and explaining that the "requested services are not medically necessary." See Respondent's Composite Exhibit 2, page 4. The NABD stated "[b]ased on the assessment of the member's care needs and household and caregiver status, Sunshine

Health will reduce the Homemaker Services from 17 hours/week to 14 hours/week. . . .” See Respondent’s Composite Exhibit 2, page 5.

10. Petitioner requested an appeal of Respondent’s termination of 4 hours per week of adult companion services. See Respondent’s Composite Exhibit 1, page 83. On April 11, 2020, Respondent sent Petitioner an NPAR, denying Petitioner’s plan appeal. *Id.* at 89. The NPAR stated as follows:

The reason for our decision was:
The request for 4 hours per week of Companion Care is denied. Companion Care is for those members who do not have a caregiver or who have inadequate caregiver support. You live with your daughter who is your caregiver and works in the home. Your daughter's spouse and your wife also live there. You are not at risk for social isolation. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

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

Respondent’s Composite Exhibit 1, page 89.

11. Petitioner requested an appeal of Respondent’s reduction of homemaker services from 17 hours per week to 14 hours per week. See Respondent’s Composite Exhibit 2, page 83. On April 11, 2020, Respondent sent Petitioner an NPAR, denying Petitioner’s plan appeal. *Id.* at 89. The NPAR stated as follows:

The reason for our decision was:
The request for an additional 3 hours per week of Home Making is denied. Your current home health hours are adequate to meet your needs. You are not bed bound or wheelchair bound. You have a caregiver that participates in your care. Your Care Plan includes 14 hours per week of Personal Care and 14 hours per week of Home Making for a total of 28 hours per week of Home Health Care Services. This decision was made with Sunshine Health Policy LT.UM.09 Long Term Care Ancillary Service Criteria.

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

Respondent's Composite Exhibit 2, page 89.

12. On August 5, 2020, Petitioner requested a Fair Hearing due to the termination of adult companion services and the reduction of homemaker services. On August 14, 2020, the undersigned scheduled the Fair Hearing for September 17, 2020, at [REDACTED] and all parties were duly notified.

13. Dr. Carter is the LTC Medical Director for Sunshine. During the Fair Hearing, Dr. Carter explained that the rationale for Respondent's determination is as follows: Petitioner lives with 2 family members; Petitioner's caregiver lives in house with Petitioner and does not work outside the home; Petitioner only requires partial assistance with some ADLs; and Petitioner is receiving personal care services which can include homemaking services. Dr. Carter testified that once services are authorized, Petitioner can adjust the times the services are provided to meet his needs. Dr. Carter testified that he reviewed all documentation submitted to Respondent for this case, including the documents in Petitioner's Composite Exhibit 1, and it did not change his opinion in this matter.

14. [REDACTED] is Petitioner's daughter and primary caregiver. [REDACTED] lives in the home with Petitioner and Petitioner's wife who is Petitioner's mother. Petitioner's wife has health issues. [REDACTED] does not work outside the home. [REDACTED] believes that adult companion care services are needed for: the supervision of Petitioner's showers; taking Petitioner to church and to see his friends, since Petitioner does not drive; taking Petitioner for walks outside; and shopping. [REDACTED] believes that Petitioner needs homemaker services for cooking and grocery shopping. [REDACTED] is the person who needs to contact the landlord when something goes wrong with the apartment in which she lives with Petitioner. Petitioner can stay alone in the home for short

periods of time, such as a day. If [REDACTED] needs to travel overnight, she calls her brother from another state to come stay with Petitioner.

CONCLUSIONS OF LAW

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

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

17. 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.

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

19. The Florida Medicaid policy that applies to the requested services is the Florida Medicaid Statewide Medicaid Managed Care Long-term Care Program Coverage Policy (March 2017)

("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.

...

1.3.16 Natural Supports Unpaid supports that are provided voluntarily to the individual in lieu of home and community-based services and supports.

...

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.

...

4.2.1.1 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.

...

4.2.2.6 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.

20. 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.

21. In the instant case, Respondent terminated 4 hours per week of adult companion services and reduced homemaker services from 17 hours per week to 14 hours per week. *See supra* ¶ 8 and 9. As established on the record by the evidence and testimony, Respondent reduced adult companion services, because the documentation submitted in support of Petitioner’s request failed to establish that the requested services were medically necessary. *See supra* ¶ 8 -11.

22. Section 4.1 of the SMMC LTC Policy provides that Florida Medicaid LTC plans cover services that: are medically necessary, as defined in the SMMC LTC Policy; do not duplicate another service; and meet the criteria as specified in the SMMC LTC Policy. *See supra* ¶ 19. Section 4.2.1.1 of the LTC Policy reflects that adult companion services are “[t]he 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.” *See supra* ¶ 19. Section 4.2.1.9 of the SMMC LTC Policy defines homemaker services as 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.” *See supra* ¶ 19.

23. The evidence presented in this case reflects that Respondent’s termination of 4 hours per week of adult companion services and the reduction of homemaker services from 17 hours per week to 14 hours per week are warranted under the circumstances of this case. Specifically, regarding ADLs, Petitioner: needs no assistance with eating and using the bathroom; uses assistive devices for using the bathroom, transferring, and walking/mobility; and needs assistance (but not total help) with bathing and dressing. *See supra* ¶ 3. Petitioner requires supervision for showers. *See supra* ¶ 14. Regarding IADLs, Petitioner needs: assistance (but not total help) with using the telephone, shopping, managing medication, and using transportation; and total assistance (cannot do at all) with heavy chores, light housekeeping, managing money, and preparing meals. *See supra* ¶ 4. Petitioner has “vertigo that may last more than a day,” *supra* ¶ 6, dementia, cataracts, macular degeneration, and other medical conditions. *See supra* ¶ 2. However, Petitioner resides in the home with his wife and [REDACTED]. *See supra* ¶ 14. [REDACTED] is Petitioner’s primary caregiver, and she does not work outside the home. *Id.* Petitioner is not receiving “any therapies or specialty care at this time.” *See supra* ¶ 2. Petitioner can stay

in the home alone for short periods of time, such as a day. *Id.* When [REDACTED] travels overnight, her brother stays with Petitioner. *Id.* Further, Dr. Carter testified that he reviewed all documentation submitted to Respondent for this case, including the documents in Petitioner's Composite Exhibit 1, and it did not change his opinion in this matter. *See supra* ¶13. Based upon the evidence presented by both parties, Respondent established that the termination of 4 hours per week of adult companion services and the reduction of homemaker services from 17 hours per week to 14 hours per week is warranted in this case.

24. 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* ¶ 19. Petitioner is currently authorized to receive the following home and community-based supportive services 14 hours per week of personal care services; and 14 hours per week of homemaker services (not including the 3 hours of homemaker services that are the subject of this case). *See supra* ¶ 5 and 11. Once services are authorized, Petitioner can adjust times the services are provided to meet his needs. *See supra* ¶ 13. Considering the LTC Policy's definitions for adult companion services, homemaker services and personal care services, *supra* ¶ 19, Respondent demonstrated that Petitioner's aforementioned needs, *supra* ¶ 2 – 7, 14, and 23, are sufficiently met by his currently authorized services. Further, given that Respondent established that the requested adult companion services and homemaker services are not warranted in this matter, *supra* ¶ 24, the previously authorized amount of adult companion services and homemaker services are "in excess of [Petitioner's] needs." *See supra* ¶ 19.

25. 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 ¶ 19. The record reflects that Petitioner resides in the home with his wife and [REDACTED]. See supra ¶ 14. Although Petitioner’s wife has health issues, [REDACTED] is his primary caregiver. *Id.* Petitioner can stay in the home alone for short periods of time. *Id.* [REDACTED] brother from another state stays with Petitioner when [REDACTED] travels overnight. Therefore, Petitioner has natural supports available to assist with his care and needs.

26. In light of the both parties’ testimony, Petitioner’s Composite Exhibit 1, Respondent’s Composite Exhibit 1, Respondent’s Composite Exhibit 2, the SMMC LTC Policy, and the Definitions Policy, the undersigned Hearing Officer finds that Respondent demonstrated that Petitioner’s previously authorized amount of adult companion services and homemaker services is not medically necessary.

27. Accordingly, the undersigned Hearing Officer finds that Respondent proved by a preponderance of the evidence that Respondent’s termination of 4 hours per week of adult companion services and reduction of homemaker services from 17 hours per week to 14 hours per week was correct.

DECISION

Respondent’s termination of 4 hours per week of adult companion services is **AFFIRMED**.

Respondent’s reduction of homemaker services from 17 hours per week to 14 hours per week is **AFFIRMED**.

Petitioner’s appeal based on Respondent’s denial in this matter is **DENIED**.

DONE AND ORDERED this 15th day of October, 2020, in Tallahassee, Leon County, Florida.



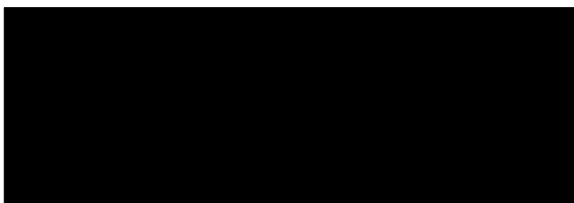
Tracie Hardin
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TRACIE HARDIN, Hearing Officer
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NOTICE OF A RIGHT TO JUDICIAL REVIEW

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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