STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

[redacted]

APPEAL NO. 14F-02170

PETITIONER,

Vs.

AGENCY FOR HEALTH
CARE ADMINISTRATION
CIRCUIT: 14 Jackson
UNIT: AHCA

RESPONDENT.
_____/

FINAL ORDER

Pursuant to notice, the undersigned convened a telephonic administrative hearing in the above-referenced matter on April 24, 2014 at 3:00 p.m.

APPEARANCES

For the Petitioner: [redacted] Husband

For the Respondent: Stephanie Cortes, Registered Nurse Specialist

STATEMENT OF ISSUE

At issue is the Respondent's action in disenrolling Petitioner from the Statewide Medicaid Managed Care Long-Term Care Program.

PRELIMINARY STATEMENT

The Agency for Healthcare Administration ("AHCA" or "Agency") is responsible for administering Florida's Medicaid Program. AHCA is also responsible for implementing the Statewide Medicaid Managed Care Long-Term Care Program.

Witnesses for the Respondent were Loretta Miller, Program Administrator with AHCA, and Paula James, Bureau Chief with the Department of Elder Affairs CARES Program.

Respondent's exhibits 1 through 2 were entered into evidence. Petitioner submitted no exhibits into evidence.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the final hearing and on the entire proceeding, the following Findings of Fact are made:

1. Petitioner is a 55 year-old female enrolled in the Statewide Medicaid Managed Care Long-Term Care Program. She resides in the family home.

2. At all times relevant to this proceeding, Petitioner remained eligible to receive services under Florida's Medicaid State Plan program.

3. On March 18, 2014, AHCA informed Petitioner she did not meet the eligibility requirements for the Statewide Medicaid Managed Care Long-Term Care Program. The notice states in part:

> This letter is to let you know that you are currently not eligible for the Statewide Medicaid Managed Care Long-Term Care program and were enrolled in error. Since an enrollee must be eligible according to section 409.979, Florida Statute (2013), your enrollment in the Long-Term Care program will end on MARCH 31, 2014. Your Long-Term Care plan will also stop paying for services on this date.

4. Paula James explained Petitioner was enrolled erroneously due to a system error. In 2012, CARES issued a level of care assessment which recommended temporary nursing facility placement. As a result, the computer system automatically enrolled Petitioner in the program. Ms. James explained Petitioner is not currently

residing in a nursing home nor is she enrolled in a current long-term care waiver program, which is a requirement for enrollment.

CONCLUSIONS OF LAW

5. The Department of Children and Families Office of Appeal Hearings has jurisdiction over the subject matter of this proceeding and the parties, pursuant to Florida Statutes § 120.80. The Office of Appeal Hearings provided the parties with adequate notice of the administrative hearing.

6. Florida Medicaid State Plan is authorized by Chapter 409, Florida Statutes, and Chapter 59G, Florida Administrative Code. The program is administered by the Agency for Health Care Administration.

7. This hearing was held as a de novo proceeding pursuant to Rule 65-2.056, Florida Administrative Code.

8. The burden of proof was assigned to the Respondent in accordance with Rule 65-2.060(1), Florida Administrative Code.

9. The standard of proof needed to be met for an administrative hearing is by a preponderance of the evidence, as provided by Rule 65-2.060(1), Florida Administrative Code.

10. Section 409.979, Florida Statutes, sets standards for the Florida Statewide Medicaid Managed Care Long-Term Care Program and states:

> Eligibility.—
> (1) Medicaid recipients who meet all of the following criteria are eligible to receive long-term care services and must receive long-term care services by participating in the long-term care managed care program. The recipient must be:
> (a) Sixty-five years of age or older, or age 18 or older and eligible for Medicaid by reason of a disability.

(b) Determined by the Comprehensive Assessment Review and Evaluation for Long-Term Care Services (CARES) Program to require nursing facility care as defined in s. 409.985(3).

(2) Medicaid recipients who, on the date long-term care managed care plans become available in their region, reside in a nursing home facility or are enrolled in one of the following long-term care Medicaid waiver programs are eligible to participate in the long-term care managed care program for up to 12 months without being reevaluated for their need for nursing facility care as defined in s. 409.985(3):
(a) The Assisted Living for the Frail Elderly Waiver.
(b) The Aged and Disabled Adult Waiver.
(c) The Consumer-Directed Care Plus Program as described in s. 409.221.
(d) The Program of All-inclusive Care for the Elderly.
(e) The long-term care community-based diversion pilot project as described in s. 430.705.
(f) The Channeling Services Waiver for Frail Elders.
(3) The Department of Elderly Affairs shall make offers for enrollment to eligible individuals based on a wait-list prioritization and subject to availability of funds. Before enrollment offers, the department shall determine that sufficient funds exist to support additional enrollment into plans.

11. The cumulative evidence shows Petitioner, a 55 year-old female, has not been determined by the CARES program to require nursing facility care. The Petitioner is not residing in a nursing home facility, nor is she enrolled in an eligible long-term care Medicaid waiver program pursuant to the above Statute.

12. Although Petitioner does not meet the requirements for enrollment in the Statewide Medicaid Managed Care Long-Term Care Program at this time; she does remain eligible for services under Florida's Medicaid State Plan.

13. After careful review of the evidence submitted and the relevant laws set forth above, the undersigned concludes the Department's action was proper.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the appeal is hereby denied and the Agency's action is affirmed.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The petitioner is responsible for any financial obligations incurred as the agency has no funds to assist in this review.

DONE and ORDERED this 6th day of June, 2014, in Tallahassee, Florida.

La Toya Jackson

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Copies Furnished To: [redacted] Petitioner
Marshall Wallace, Area 2, AHCA Field Office Manager