

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

NANCY E. WRIGHT,

Plaintiff,

CASE NO.: 2020 CA 002214

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Defendant,
_____ /

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES TO
COUNT ONE OF PLAINTIFF'S COMPLAINT**

Defendant, Agency for Health Care Administration, ("Defendant" or "AHCA") answers Plaintiff's Complaint as follows:

I. Preliminary Statement

1. Admitted.
2. Denied.
3. Without knowledge and therefore denied.
4. Denied.
5. Admitted that final orders are made available after redaction through a public records request; otherwise denied.
6. Admitted that this action seeks declaratory and injunctive relief; otherwise denied.

II. Jurisdiction

7. Admitted that the court has jurisdiction via section 86.021, Florida Statutes. Otherwise denied.

8. Admitted.

9. Without knowledge and therefore denied.

III. Parties

10. Without knowledge and therefore denied.

11. The first sentence of paragraph 11 is admitted. The second sentence is a legal conclusion and not an allegation of ultimate fact. As such, no response is required.

IV. Facts and Allegations

A. Overview of Florida's Medicaid Program

12. Admitted.

13. Without knowledge and therefore denied.

14. Admitted that AHCA contracts with public or private entities; otherwise denied.

15. Admitted.

16. The allegations of paragraph 16 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

17. The allegations of paragraph 17 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

18. The allegations of paragraph 18 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

19. The allegations of paragraph 19 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

20. The allegations of paragraph 20 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

21. The allegations of paragraph 21 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

22. The allegations of paragraph 22 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

23. Admitted that Florida statute section 120.53(1) is accurately quoted; otherwise denied.

24. Admitted that Florida statute section 120.53 is accurately quoted; otherwise denied.

25. Admitted that Florida Statute sections 120.57 and 120.569 are accurately quoted; otherwise denied.

26. Denied.

27. The allegations of paragraph 27 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 27.

28. Denied.

29. Denied.

30. Denied.

31. The allegations of paragraph 31 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 31.

32. The allegations of paragraph 32 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 32.

33. The allegations of paragraph 33 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 33.

34. The allegations of paragraph 34 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 34.

35. The allegations of paragraph 35 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required. To the extent that any response could be required, AHCA denies the allegations of paragraph 35.

36. Admitted to the extent 42 C.F.R. § 431.244(g) is accurately quoted; otherwise denied.

37. Without knowledge and therefore denied.

38. Denied.

39. The allegations of paragraph 39 are not allegations of ultimate fact. Instead, they are alleged conclusions of law. As such, no response is required.

40. Admitted that DCF has, at times, forwarded financial eligibility decisions to DOAH; otherwise denied.

41. Denied.

42. Denied.

43. Denied.

B. Plaintiff Facts

44. Without knowledge and therefore denied.

45. Without knowledge and therefore denied.

46. Without knowledge and therefore denied.

47. Admitted that AHCA received a request for fair hearing final orders on July 29, 2020; otherwise denied.

48. Admitted.
49. Admitted.
50. Admitted.
51. Admitted.
52. Admitted.
53. Admitted.
54. Without knowledge and therefore denied.
55. Admitted.
56. Without knowledge and therefore denied.
57. Without knowledge and therefore denied.
58. Without knowledge and therefore denied.
59. Without knowledge and therefore denied.
60. Without knowledge and therefore denied.
61. Without knowledge and therefore denied.
62. Denied.
63. Denied.
64. Without knowledge and therefore denied.

VIII. Causes of Action

First Cause of Action: Declaratory Judgment under Fla. Stat. § 86.011 Et. Seq. that AHCA Comply with Fla. Stat. § 120.53.

65. Defendant restates its responses to allegations 1-64 as if fully set forth herein.
66. Denied.
67. Denied.
68. Denied.

69. Denied.

70. Denied.

Second Cause of Action: Defendant Violates Chapter 119, Fla. Stat.

71. Defendant has filed a Motion to Dismiss Count II; therefore, no response is required at this time.

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IX. Request for Relief

The request for relief, and all allegations not specifically admitted herein, are denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a cause of action.

SECOND AFFIRMATIVE DEFENSE

Plaintiff lacks standing for some or all of her claims.

THIRD AFFIRMATIVE DEFENSE

To the extent that Plaintiff failed to serve a copy of her claim on Risk Management of the Department of Financial Services, Plaintiff has failed to comply with section 284.30, Florida Statutes, as a condition precedent to her requested relief.

FOURTH AFFIRMATIVE DEFENSE

Defendant has made available all Medicaid fair hearing final orders and has fully complied with its statutory obligations.

DEMAND FOR ATTORNEY'S FEES

Defendant demands an award of its attorney's fees and costs of suit to the extent allowed under applicable law.

RESERVATION OF RIGHTS

Defendant reserves the right to amend this Answer and add other defenses as allowed by law.

WHEREFORE, Defendant respectfully requests that this Court deny Plaintiff all requested relief and award Defendant its costs, reasonable attorney's fees, and such other relief as may be necessary or appropriate.

Respectfully submitted this 19th day of January, 2021.

/s/ Christopher B. Lunny

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on January 19, 2021, the foregoing was filed electronically using the Court's electronic filing system which will send notice and a copy of this filing to:

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/s/ Christopher B. Lunny

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