

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

COMMUNITY HEALTH CHARITIES OF)
FLORIDA, ET AL.,)
)
Petitioners,)
)
vs.) Case No. 07-3547
)
DEPARTMENT OF MANAGEMENT)
SERVICES,)
)
Respondent.)
_____)

RECOMMENDED ORDER ON REMAND

This proceeding came on before P. Michael Ruff, a duly-designated Administrative Law Judge of the Division of Administrative Hearings, pursuant to an opinion of the First District Court of Appeal, reversing and remanding the Final Order of the Respondent agency. That Final Order had adopted a Recommended Order entered by Administrative Law Judge Charles Adams on February 29, 2008. The Court's opinion reversed the Final Order because the Recommended Order did not contain findings of facts of record to support the findings made therein that all but three of the Petitioner charities had not provided "direct services" and therefore were not eligible for "undesignated funds" from the Florida State Employees Charitable Campaign (FSECC). Community Health Charities of Florida v. Department of Management Services, 7 So. 3d 570 (Fla 1st

DCA 2009). Upon remand, the matter was assigned to Administrative Law Judge P. Michael Ruff, due to Judge Adams' intervening retirement. A status conference was held and the parties agreed that no hearing was necessary, and that the further proceedings directed by the Court's mandate could be conducted based upon the extant administrative and judicial record. The parties requested and were authorized to file Proposed Recommended Orders addressing the scope of the Court's opinion, the record evidence to be considered, and proposing findings of fact and Conclusions of Law. The appearances were as follows:

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STATEMENT OF THE ISSUES

The issue to be resolved in this remand proceeding concerns whether the Petitioner charities provided "direct services" within the meaning of Section 110.181, Florida Statutes, (2007), and Florida Administrative Code Rule 60L-39.0015(1)(i).

PRELIMINARY STATEMENT

This cause arose upon the filing of an amended petition for formal administrative hearing (Third Amended Petition) by Community Health Charities of Florida (CHC) and its member charities (Petitioners). The Petitioners sought to contest a decision by the Respondent, Department of Management Services (DMS) and its Statewide Steering Committee (Committee), assigned by statute and rule to make allocations of "undesignated funds" remaining to be apportioned to participating charities, after the FSECC charitable State employees campaign. By statute the undesignated funds were to be apportioned and allocated to charities who established that they provided "direct services" in "fiscal agent areas." The Respondent and its Committee had determined initially that 21 of the charities who were Petitioners did not provide "direct services." The Petitioners contested that initial decision and the dispute was assigned to Administrative Law Judge Charles C. Adams, who held a de novo hearing on November 13 and 14, 2007. Judge Adams issued a Recommended Order on February 29, 2008, determining that three

of the Petitioners had provided "direct services" and that the remaining Petitioner charities had not provided such services and, therefore, were not entitled to a grant of their claims for undesignated funds. That Recommended Order was adopted by Final Order of the Respondent, which was then appealed to the First District Court of Appeal.

The above-referenced opinion was then issued on March 4, 2009, wherein the District Court reversed the Final Order, in part, because the Recommended Order had not identified record support and "facts of record" supportive of the findings that certain appellants, (Petitioners below) had not provided "direct services." The Court remanded the case for further proceeding, consistent with its opinion, in essence directing that additional explanatory Findings of Fact be made concerning the findings that certain appellants did not provide "direct services" and were thus barred from receiving undesignated funds in the 2006 FSECC campaign. The Court found that the Judge's Recommended Order was devoid of factual findings regarding his denial of "several" of the appellants' applications for designated funds. The Court found that the Administrative Law Judge (ALJ) had not set forth his basis for finding that "certain" appellants did not provide "direct services" in a local fiscal agent's area. The Court thus determined that the requirements of Section 120.569 (2)(m), Florida Statutes (2008),

had not been met in the Recommended Order and, by its adoption, the Final Order of the DMS. The Court affirmed in part and reversed in part, and remanded the matter for further proceedings consistent with that opinion.

Upon remand, and entry of the mandate, the case was re-assigned to the undersigned Administrative Law Judge, who conducted a telephonic status conference whereby the parties agreed that the case should proceed on the original record, without the need for taking additional evidence. An order was issued on April 28, 2009, instructing the parties (as they had agreed) to address in their respective Proposed Recommended Orders the scope of the District Court's opinion and the scope of the evidence to be considered. The parties were directed to file their Proposed Recommended Orders on or before May 18, 2009, which they accomplished.

The Court's Opinion

The holding of the District Court of Appeal, as well as its directions on remand, appears at pages 571 through 572 of the opinion as follows:

At the close of the 2006 Campaign, the appellants each applied for undesignated funds pursuant to section 110.181(2)(e). The Department determined that several of the appellants did not qualify for receipt of undesignated funds. As a result of these denials, the appellants sought a formal administrative hearing. In their third-amended petition, the appellants asserted

their entitlement to receive undesignated funds, alleging, in pertinent part, that the Department had made improper factual determinations when deciding that the appellants were not entitled to such funds. After the evidentiary hearing, conducted pursuant to sections 120.57(1) and 120.569, Florida Statutes (2007), the ALJ entered a recommended order finding that several of the appellants were properly denied undesignated funds. In support of these findings, the ALJ noted that he accepted the appellants' exhibits twenty-one through thirty-eight, which provided explanations regarding the unapproved appellants and "expand[ed] what is known about the charities, their services, the manner that the services were provided, who receives the services and where the services are received." The ALJ stated, "Without recounting the details from the various sources previously described, all that information is accepted for purposes of this Recommended Order, as to the facts represented in the exhibits." The ALJ found, "Based upon information provided in the aforementioned exhibits, the Association for Retarded Citizens/Florida, CHC, Florida Hospices and Palliative Care and the National Alliance for the Mentally Ill of Florida do not provide direct services in fiscal agent areas without intervention between the services offered and persons served in any location." The ALJ did not provide further explanation or factual support for these findings.

The appellants filed several exceptions to the ALJ's recommended order. The appellants argued that the ALJ erred in failing to cite to facts in the record to support his findings that certain appellants did not provide direct services and were thus barred from receiving undesignated funds through the 2006 Campaign. The Department entered a final order approving the ALJ's recommended order and denying all

of the appellants' exceptions. The Department identified record evidence that supported the ALJ's findings that certain appellants did not qualify for undesignated funds.

Section 120.569 Florida Statutes (2007), governs administrative decisions affecting substantial interests. Section 120.569(2)(m), provides, "Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, must be accompanied by a concise and explicit statement of the underlying facts of record which support the findings." Additionally, we explained in Memorial Healthcare Group, Inc. v. State, Agency for Health Care Administration, 879 So. 2d 72,74 (Fla. 1st DCA 2004), that "ALJ's are required to make specific factual findings on substantial issues."

In the instant case, the ALJ's recommended order is devoid of factual findings regarding his denial of several of the appellants' applications for undesignated funds. The ALJ failed to set forth his basis for finding that certain appellants did not provide direct services in a local fiscal agent area. The ALJ, as the finder of fact, was required to identify record evidence in support of his denial of the appellants' claims to undesignated funds. The Department's citation to record evidence that supports the ALJ's findings in the final order does not cure the ALJ's failure to adhere to the requirements of section 120.569(2)(m). Accordingly, we AFFIRM in part, REVERSE in part, and REMAND for further proceedings consistent with this opinion.

The Court thus held that "[t]he ALJ, as the finder of fact, was required to identify record evidence in support of his denial of the appellants' claims to undesignated funds."

Community Health Charities, 7 So. 3d at 572. Thus, the opinion requires the ALJ on remand to review the record de novo and issue a recommended order citing facts of record which would support any findings concerning whether any Petitioners provided "direct services."

The ALJ's findings under challenge, which state that the Petitioners did not provide "direct services," appear in two paragraphs of the Recommended Order:

29. Based upon information provided in the afore-mentioned exhibits, the Association for Retarded Citizens/Florida, CHC, Florida Hospices and Palliative Care and the National Alliance for the Mentally Ill of Florida do not provide direct services in fiscal agent areas without intervention between the services offered and persons served in any location.

33. Of the unapproved requests for first tier undesignated funds made by remaining Petitioners' in other specific United Way fiscal agent areas, the facts do not support those requests.

The Court concluded that these findings were deficient for two reasons. First, Section 120.569(2)(m), Florida Statutes (2008), provides that findings which merely track a statutory text must include "a concise and explicit statement of the underlying facts." Paragraph 29 re-states the definition of "direct services" adopted by Florida Administrative Code Rule 60L-39.0015(1)(i), without mentioning the explanatory underlying facts which might show why the named charities mentioned in that

paragraph were deemed to have not provided services in the relevant fiscal agent areas which met the definition of "direct services".

Paragraph 33 in turn, provides, as to the remaining unnamed Petitioners' (appellants) funds requests, that "the facts do not support those requests." It is therein necessarily implied that the facts do not show that those remaining unnamed Petitioners provided "direct services in fiscal agent areas without intervention between the services offered and persons served in any location" (the Rule definition). Paragraph 33, however, contains no mention of underlying, explanatory facts which would support the ALJ's ultimate finding. The District Court therefore reversed the Final Order because the findings, adopted from the Recommended Order, violate Section 120.569(2)(m), Florida Statutes (2008).

Second, the Court cites as additional authority, Memorial Health Care Group, Inc. v. State Agency for Healthcare Administration, 879 So. 2d 72, 74 (Fla. 1st DCA 1994), which holds that ALJ's must "make specific factual findings on substantial issues." The Memorial opinion then references Mayes v. Department of Children and Family Services, 801 So. 2d 980 (Fla. 1st DCA 2001), where the Court determined that "It is necessary that the ALJ make specific factual findings, based on record evidence, indicating how appellant's use of harness

violated the statutes or rules or otherwise justified the denial of appellant's application." The Mayes holding instructs the fact finder to make specific findings of fact that justify the denial of the applications for undesignated funds. The Court's opinion, and the decisional authority it cited, clearly illustrate that both paragraphs 29 and 33 of the Recommended Order were deficient in terms of the absence of any explanatory findings of fact.

Moreover, the ALJ made a general description of the evidence he felt was necessary to decide entitlement as to all 21 Petitioners/appellants in paragraphs 26 and 27 of the Recommended Order:

26. Concerning the remaining request to receive first tier undesignated funds by those 21 Petitioners, information necessary to decide entitlement is found within the 2006 Campaign Direct Local Services Certification Form with Guidelines (Petitioner's Exhibit numbered 12A); the explanations found within Exhibit 2 to the Amended Petition for Formal Administrative Hearing, which became Petitioner's Exhibit numbered 12B and a series of exhibits admitted at hearing, Petitioner's Exhibits numbered 21 through 38. Those latter exhibits provide explanations pertaining to the 21 disappointed Petitioners, expanding what is known about the charities, their services, the manner that the services are provided, who receives the services and where the services are received, together with the address(es) of the respective organizations.

27. In addition, the depositions of Paul Andrew Ledford of Florida Hospice and

Palliative Care (Joint Exhibit No. 2); Susanne Homant, National Association of Mentally Ill in Florida (Joint Exhibit No. 3); Deborah Linton, Association for Retarded Citizens of Florida, Inc. (Joint Exhibit No. 4); Suzanne Earle, Children's Tumor Foundation (Joint Exhibit No. 5); Pamela Byrne, Leukemia and Lymphoma Society (Joint Exhibit No. 6) and Tracy Tucker, Cystic Fibrosis Foundation (Joint Exhibit No. 7) afford additional insight on the subject of who is served, where they are served etc., pertaining to the subject.

Then, in paragraph 28, the ALJ, in referencing those evidentiary items stated:

28. Without recounting the details from the various sources previously described, all that information is accepted for purposes of this Recommended Order, as to the facts represented in the exhibits.

Explanatory findings of fact, however, are not supplied by such a general statement of evidentiary reference. It is clear, however, that in findings numbered 26 through 33, in the Recommended Order, the Administrative Law Judge was addressing the entitlement of all 21 previously disappointed Petitioners.

The Respondent contends that the Court's opinion is limited in its scope to the ALJ's findings as to the three named Petitioners specifically identified in paragraph 29 and that consideration upon remand does not include addressing the denial of entitlement of the remaining Petitioners, which were not specifically named in the Recommended Order findings at issue, but were denied entitlement in Paragraph 33. The Respondent

grounds its argument on the Court's characterization of the appellants' grievance as pertaining to "some of the appellants," "several appellants" or that the ALJ's error was limited to "certain appellants." Community Health Charities, at 7 So. 3d 571, 572.

A plain reading of the opinion does not reasonably support an inference that the adjectives "some", "several" or "certain" mean only named appellants or those identified in paragraph 29. The opinion does not distinguish appellants named and unnamed in the Recommended Order's Findings. The Respondent's argument does not appear to account for the conclusion in the Court's opinion that the ALJ was required to identify record evidence, "in support of his denial of the appellants' claims to undesignated funds" (ie. Simply "appellants'"[plural]). That conclusion reasonably could apply to all denied appellants and is deemed to apply equally to Paragraphs 29 and 33, for each are "devoid of factual findings" and violate the essential holding of the opinion. Community Health Charities, at 572.

The Respondent's interpretation, in effect, misapplies the authority cited in the opinion. Neither Section 120.569(2)(m), Florida Statutes (2008), nor the Memorial Health Care holding, by their terms, apply only when the finding pertains to an identified applicant in a recommended order. The opinion would defy rational analysis if the Court were deemed to treat

differently the appellant charities that were named and the appellant charities that were unnamed. Such would produce the absurd result that, as to the named appellants referenced in paragraph 29, reversal for additional explanatory fact-finding would be made, while as to the appellants referenced without name, in paragraph 33 of the Recommended Order, a paragraph characterized by the same lack of specific, explanatory findings of fact as paragraph 29, the denial of entitlement to the funds would be left undisturbed. Indeed, a plain, sensible reading of the opinion and related record is that the findings as to all appellant charities who were found not to have provided "direct services" are reversed for the additional fact-finding referenced in the opinion.

In consideration of all the record evidence, including, but not limited to, that referenced in paragraphs 26 through 33 of the Recommended Order, the following facts are found.

FINDINGS OF FACT

1. Section 110.181(1)(a), Florida Statutes (2006), provides that the FSECC is the only authorized charitable fund-raising campaign directed towards State employees within work areas, during work hours, and for which the State will provide payroll deduction. State employees are given the opportunity annually to make pledges to the campaign, which includes the opportunity to direct their donation to particular charities.

Each employee receives a booklet listing those charities that are qualified to participate in the campaign. The employee can designate a pledge amount to one or more particular charities on the list, or simply pledge an amount of funds as "undesignated funds" that are distributed to charities according to a statutory formula.

2. Section 110.181, Florida Statutes (2006), governed the 2006 FSECC and provides that "[P]articipating charitable organizations that provide direct services in a local fiscal agent's area shall receive the same percentage of undesignated funds as the percentage of designated funds they receive. . . . "Section 110.181(2)(e), Florida Statutes, That statute does not define the term "direct services."

3. The Respondent agency adopted Florida Administrative Code Rule 60L-39.0015(1)(i) defining the phrase "direct services" to mean "[i]dentifiable and specific services available to the local fiscal agent's area without any intervention between the services offered and persons served."

4. The Petitioners are 21 charities that were approved by the Steering Committee to participate in the 2006 campaign. The Petitioner CHC is a "Federation" or "umbrella" agency within the meaning of Florida Administrative Code Rule 60L-39.0015(1)(j), and represented its other member charities, including the 21 Petitioners, in the 2006 campaign. CHC did not apply for

undesignated funds in its own right, however, and there is no question at issue of its entitlement to any such funds.

5. The 2006 campaign ended in December 2006 when CHC, on behalf of its member charities, submitted the "Direct Local Services Certification Form" (Form). That Form instructs the Federation to provide for a "[d]escription of the type of direct services delivered." See Petitioners' Exhibit 2 in evidence.

6. The Committee met in February 2007 to consider the Petitioners' submittals. It limited its consideration to the form and the report attached to the amended petition. Those are in evidence as Petitioners' Exhibits 12A and 12B. The Petitioners were not permitted to comment or provide supplemental information to the committee.

7. On March 8, 2007, the Committee approved "All charitable organizations that were . . . deemed, based on the information submitted, to be providing direct local services in at least one United Way fiscal agent area." The Committee thus approved 18.64 percent of the Petitioners' individual submissions or funding requests. The Committee did not offer reasons for denying undesignated funds to the remaining charities.

8. In September 2007 the Committee elected to reconsider the Petitioners' submittals and reconvened to consider the Petitioners' Form "for compliance with the eligibility criteria

for receipt of undesignated funds based upon the provision of direct services." After its reconsideration, the Committee ultimately approved 76.93 percent of the Petitioners' individual fund request submissions.

9. The Committee determined that 21 Petitioners did not provide "direct services" in one or more United Way fiscal agent areas. Those Petitioners are as follows: The Association for Retarded Citizens of Florida; The Alzheimer's Association; American Diabetes Association; American Liver Foundation; American Lung Association; Arthritis Foundation; Children's Tumor Foundation; Crohn's and Colitis Foundation; Cystic Fibrosis Foundation; Easter Seals of Florida; Hemophilia Foundation of Greater Florida; Huntington's Disease Society of America; Florida Hospices and Palliative Care; Leukemia and Lymphoma Society; Lupus Foundation of America; March of Dimes, National Alliance of the Mentally Ill (NAMI Florida); National Kidney Foundation; National Parkinson Foundation; Prevent Blindness Florida; and Sickle Cell Disease Association.

10. Upon remand, the undersigned has considered the exhibits admitted into evidence on behalf of the Petitioners and Respondent, as well as the joint exhibits, including depositions. The undersigned has also considered all of the hearing testimony and the deposition testimony admitted into evidence. The previous ALJ in this proceeding noted that

information necessary to decide entitlement for the 21 Petitioners who were denied undesignated funds by the Committee and Agency prior to this de novo proceeding, is found within Petitioners' Exhibits 12A and 12B, as well as Petitioners' Exhibits 21 through 38. Also germane to the determination of entitlement are the depositions entered into evidence as Joint Exhibits 2 through 7. In consideration of these portions of the evidential record, as well as the above-referenced testimony, particularly the testimony of witness Gwen Cooper, the ensuing findings of fact are made.

11. Gwen Cooper is the president and CEO of CHC. In that capacity she is required to be very familiar with services by each charity which is a member of CHC (the Petitioners) and one of her principal duties involves her being required, and being competent, to speak on the behalf of those member charities. She has first-hand knowledge of services provided by those charities due to her personal involvement, research, and extensive interaction with the staff of each charity. She completes applications and service reports on behalf of those charities for State and federal campaigns. Although Ms. Cooper is an officer of CHC, which was at least a nominal party to this proceeding (although it sought no undesignated funds) and is the administrator organization for the member charities, it is determined that Ms. Cooper testified competently and credibly

concerning her impressions and knowledge regarding the services provided by member charities in Florida, directly, without intervention, to the people who might request the services.

12. The Association for Retarded Citizens of Florida (ARC of Florida) serves as the advocacy arm for all local ARC organizations. It advocates for disabled persons who do not receive services needed through the Medicaid Waiver Program. It conducts business and advocacy efforts with legislators, local governments, in order to advocate for change, and for additional such services. Witness Debra Linton described in her deposition, in evidence, that advocacy at all levels of government by ARC of Florida is more than an incidental function of that organization. Local services are provided in large part by ARC of Florida's local affiliates which are separate entities. Local services to help the developmentally disabled really are provided by those local organizations. ARC of Florida is more of an information and referral service for assistance and does some training for persons who provide the services for the developmentally disabled on the local level. On balance, it is determined that ARC of Florida is more of an advocacy organization, rather than one which provides services directly, without intervention, to the people who actually request or need the service. Thus, because of the definition of direct services embodied in the referenced rule, ARC of Florida

would not be entitled to a portion of the undesignated funds at issue.

13. The Florida Hospices and Palliative Care Association serves mostly as an advocate for patients and families with questions or issues regarding end-of-life care. It maintains a toll-free "hotline" for referral purposes and to address end-of-life issues for patients and their families. It conducts advocacy before State government on behalf of individuals and systems regarding end-of-life care, and is the advocacy arm for local, non-profit Hospice organizations. It is mostly engaged in education efforts and advocacy for Hospice patients and families on a statewide level, in terms of public education efforts and governmental advocacy. The more direct service for patients and families in the provision of end-of-life care, bereavement counseling, and grief support is provided by local Hospice organizations that are entities under the umbrella of the Petitioner Florida Hospices and Palliative Care Association. It is thus determined that the "direct services" for Hospice patients, individuals and families are accomplished in great degree by local Hospice organizations rather than by the applicant Florida Hospices and Palliative Care Association. Since the preponderant evidence does not show that Florida Hospices and Palliative Care engages in direct services to patients in the fiscal agent areas who receive or request the

services, then that organization is not entitled to a portion of undesignated funds.

14. The National Alliance for Mental Illness (NAMI) is essentially a statewide source or clearinghouse for mental health related training programs. The organization trains representatives of local affiliate organizations, teaching them how to teach mental health-related programs at the local level. These teachers then return to their local communities and teach parents and other relatives of mentally ill persons concerning various aspects of coping with mental illness. The organization maintains a toll-free line for people who are dealing with crisis situations and uses that to refer such persons to their local affiliates in the geographical area where the caller is located. The organization also engages in statewide educational efforts and advocacy concerning people with mental illness, including legislative advocacy. It engages in efforts in conjunction with pharmaceutical companies to obtain psychotropic drugs for patients with such a need, and it does some training of Law Enforcement personnel concerning interaction with mentally ill persons. On balance NAMI is more of a parent or umbrella organization and does not engage, in a significant way, in direct provision of services to mentally ill persons or their supportive families. It clearly provides an important public service, but is more of an advocacy organization than a provider

of direct services in a local context. This quality is shown by the fact that it trains personnel from local affiliate organizations, but those persons go back and teach their skills to others at the local level, with the local affiliate organizations where the services are actually provided. Moreover, with regard to the toll-free line maintained for persons dealing with mental health related crises, Susan Homat showed that, in the use of that facility, the persons calling who need services are referred by NAMI to local affiliate organizations where the actual provision of services occurs. Consequently, on balance, and considering the various exhibits and the testimony of Ms. Homat and Ms. Cooper together, it cannot be determined that NAMI is actually providing a "direct service" as defined above, and thus it is not entitled to allocation of undesignated funds.

15. The Alzheimer's Association provides support groups, caregiver training and respite care in the fiscal agent areas applied for. They provide training for Law Enforcement officers which helps them to recognize Alzheimer's patients when they observe a person "wandering." They are therefore better able to distinguish whether such a person might be an Alzheimer's patient, as opposed to a person with an unrelated mental problem, or simply a person who might be drunk or under the influence of drugs. The Association conducts research within

Florida, conducts caregiver training for caregivers of Alzheimer's patients, and provides respite care. It provides support groups for patients and their families and caregivers. The Alzheimer's Association had been denied by the Respondent's Committee in the fiscal agent areas for the Big Bend, Brevard County, Escambia County, Lake County, Marion County, Miami, Northwest area, Okaloosa/Walton, Okeechobee County area, St. Lucie County area, Santa Rosa County area and Suwannee Valley. The preponderant evidence of record, however, establishes that all the referenced services, including many provided in those localities on the local level are provided in all those fiscal agent areas and that actual people were served in all those fiscal agent areas. Consequently, the preponderant evidence establishes that The Alzheimer's Association provides "direct services" as defined above, in all fiscal agent areas applied for. Thus, they should receive a corresponding allocation of the undesignated funds, for the period represented by the 2006 Campaign.

16. The American Diabetes Association provides an extensive interactive educational website. It provides information and referral services to trained staff and volunteers via a toll-free telephone number. The Association offers support groups, diabetes education programs for patients and caregivers, and family members, and drug purchasing

assistance. It conducts an annual public Diabetes Awareness Program. It maintains six or seven offices in regions around the state that offer support groups, diabetes educational programs and drug assistance. Services are available in the local offices as well as at local hospitals, doctor's offices and adult congregate living facilities (ALFs). The offices maintained by the Association cover regions made up of many different counties. In order to deliver its services, the use of the toll-free telephone line, website and the regional offices results in no need for an actual office to be maintained in each county or even in each fiscal agent area in order to deliver direct services in all fiscal agent areas.

17. The Association was principally denied in 22 of the 27 fiscal agent areas because the Association had not, in the view of the Committee, (and possibly the ALJ) clearly identified the persons or the number of people or the population served. The requirement on the information form, which the charities had to submit to the Committee, requested the number of people served or population. The evidence shows that it would be impractical or impossible to provide the information on the population served or available to be served, however, because approximately nine percent of the entire population of the State is diabetic or will become diabetic. In fact, however, the preponderant evidence shows, especially through Ms. Cooper's testimony, that,

in addition to being approved in five fiscal agent areas, that the American Diabetes Association actually provides direct services as defined above in the remainder of the fiscal agent areas applied for. Consequently, it should be accordingly approved for allocation and receipt of undesignated funds.

18. The American Liver Foundation provides education and outreach. It provides different brochures concerning various types of liver problems which interested persons can access either by mail or electronic media. It also conducts liver disease "screening days" at local hospitals, where members of the public can be screened for potential liver problems. The American Liver Foundation was approved for providing direct service in the Tampa Bay area; it was denied in the Big Bend area. There was no preponderant persuasive evidence that showed what services or what degree of direct services were provided in the Big Bend fiscal agent area. There was no persuasive testimony or documentary evidence to indicate that direct services in the form of education efforts, liver screening, including Hepatitis Awareness Day, was actually provided in the Big Bend area. Consequently, it has not been established that the American Liver Foundation should be allocated additional undesignated funds for the Big Bend fiscal agent area.

19. The American Lung Association of Florida is a well-known charitable agency. It is intensively involved in smoking

cessation programs, asthma programs, tobacco education programs, etc. The Lung Association was denied by the Respondent for the Tampa Bay or Gulf Coast area. The evidence shows, particularly Ms. Cooper's testimony, and Petitioner's Exhibit 23, that The American Lung Association performs the same direct charitable service in the Tampa or Gulf Coast area that it does in the remaining fiscal agent areas in Florida, in which they were approved without dispute. The referenced evidence shows that the Association properly documented the services provided and even the number of people served in the Tampa Bay/Gulf Coast area, as well as the undisputed other fiscal agent areas of the State.

20. In summary, in all the fiscal agent areas, except the Tampa Bay area, there is no dispute that the American Lung Association provides direct services to clients/patients or other interested persons. The preponderant persuasive evidence shows that the Association provides the same direct services in the Tampa Bay area as well. The Association operates a statewide camp for children with severe asthma and serves as a referral agency to connect lung patients state-wide with specialists. It operates a toll-free call center which is staffed by medical professionals. It thus should be approved for allocation of undesignated funds as to all areas for which it applied.

21. The Arthritis Foundation was approved for all fiscal agent areas in Florida, except for Santa Rosa County. It is thus undisputed that it provides direct services in accord with the above-referenced definition. The Foundation offers water exercise and land exercise classes for arthritis sufferers and it offers various support groups. The preponderant persuasive evidence shows, based upon the testimony of Gwen Cooper, that the same services are offered for Santa Rosa County as elsewhere in Florida. Therefore, there is preponderant evidence to show that the Foundation should be approved for the Santa Rosa fiscal area. It provides such direct services for that area. It thus should be allocated undesignated funds for the Santa Rosa fiscal agent area as well.

22. The Children's Tumor Foundation is concerned with a devastating, very painful disease known as Neurofibromatosis. The Foundation maintains a 24-hour help-line for parents to call local support people in various areas of the state when they are having a crisis with a child who has the disease. In conjunction with The Children's Hospital in St. Petersburg, it has inaugurated a statewide website providing information to members of the public, parents, and others who have a need for knowledge concerning this disease and reference to treatment therapies and options. The Foundation publishes pamphlets, brochures and a quarterly newsletter which has approximately

2,800 subscribers, including the four Neurofibromatosis clinics operated at the University of Florida Health Science Center in Gainesville, the University of South Florida Genetics Program in Tampa, The Miami Children's Hospital in Miami, and the Nemour's Children's Hospital in Jacksonville, as well as the Nemour's Children's Clinics in Orlando. The Foundation also has funded four research grants, two at the University of Florida in the Department of Pediatrics and Neuroscience and in the area of molecular genetics and mutation studies, another grant at the University of Central Florida and one at the University of Miami. The Foundation additionally conducts at least three medical symposiums per year concerning the disease and directly provides information and resources to members of the public, to children and adults affected by Neurofibromatosis and to medical professionals. The Foundation provided direct service without an intermediary in the fiscal agent areas applied-for and the preponderant, persuasive evidence demonstrates that its application for undesignated funds in those fiscal agent areas should be approved.

23. The Crohn's and Colitis Foundation provide public information to persons suffering with these diseases or their family members or those interested in facts concerning these diseases. The Foundation provides support groups with medical speakers, nutritionists and drug company representatives as

speakers or teachers. Thus information is promulgated concerning new drugs that are available or show promise in treating these diseases, and speakers otherwise provide attendees with information concerning the diseases and related subjects. This includes nutrition information which might help alleviate the debilitating nature of these diseases. This service, through support groups, is directly provided by the Foundation without any intermediary in the various fiscal agent areas. The Foundation was initially approved as providing direct services in seven fiscal agent areas for which it applied. It did not apply for approval in all 27 fiscal agent areas. It was initially denied by the Respondent in Lee County, the Northeast Florida area, and the Northwest Florida area only. The preponderant, persuasive evidence shows however that the same service is provided in those areas where its application was denied as where it was approved. Consequently, preponderant evidence has established that the Foundation provides direct services in the fiscal agent areas for which it applied and it should be approved for allocation of undesignated funds accordingly.

24. Easter Seals of Florida Inc. operates through offices around the state and also through home-based care programs. It provides early intervention and childcare center-based child development programs. This includes after school care for

children with or without disabilities and special needs, from birth to five years of age, in a pre-school educational setting. The programs are designed by a treatment team based on a child's individual needs. Speech, occupational and physical therapies are offered, as prescribed, along with specialized therapeutic equipment designed to help children meet developmental goals.

25. After school programs provide enrichment opportunities, tutoring, recreation, relaxation, nutrition and cultural programs. Easter Seals served approximately 475 children through these programs during the 2006 campaign year.

26. Easter Seals also offers home-based intervention programs for infants and toddlers up to 36 months, with developmental delays. Professional early intervention services are provided one-on-one in the home or in a typical childcare setting. Easter Seals served approximately 100 children through these programs. The Easter Seals Safety Net Program is an attendance monitoring program sponsored in conjunction with the Department of Children and Families. It serves at-risk children who are enrolled in childcare facilities that are contracted with the School Board of Hillsborough County. The goal is to keep children safe and families together. Case managers for the Easter Seals Safety Net Program are assigned to various childcare facilities throughout Hillsborough County. Easter

Seals monitored the attendance of some 1,400 children in Hillsborough County through this program during the 2006 year.

27. Easter Seals also provides outpatient rehabilitation and therapy for children and adults with disabilities. It served approximately 200 children and adults through these programs. It served some 290 children and adults through its camping and recreation program at "Camp Challenge". Easter Seals serves disabled children from all areas of this state through this camping program. Easter Seals also provides adult day healthcare, vocational services and a health watch for persons who are frail, elderly and have various disabilities. It served over 1,600 adults through these programs. Easter Seals served approximately 4,100 individuals with disabilities and their families through 19 programs offered statewide.

28. The Respondent denied Easter Seals' application for undesignated funds as to Collier, Marion, Martin, the Northeast region, Okeechobee County, Pasco County, St. Lucie County, Sarasota County and the Suwannee Valley region. While the charity does not have its own offices in all of those counties it does offer its home-based care program, with rehabilitation and therapy, and its camp for children with developmental and physical disabilities to children in all areas of the state. Therefore, in that sense it provides direct service in all the areas for which it sought undesignated funds. The persuasive

evidence demonstrates that there is no difference in the service offered or provided in the counties in which the Respondent denied Easter Seal's application versus those where it was approved. Consequently Easter Seals Florida Inc., should be approved for allocation of undesignated funds in the fiscal agent areas applied-for.

29. The Hemophilia Foundation of Greater Florida (Hemophilia Foundation) provides direct service to Hemophilia patients in Florida through its support of blood treatment centers throughout the State of Florida. Additionally, the Foundation provides gas cards to patients in order to pay expenses for them to travel to treatment centers, if the treatment center is not located in their specific county. The Hemophilia Foundation also works directly with patients, with pharmaceutical companies and the PHARMA Program in order to get patients reimbursement money for drugs related to Hemophilia. The treatment options for patients, including drugs, are extremely expensive.

30. The Foundation works directly with patients. It actually delivers gas cards directly to the patient, in the instances where patients are being reimbursed for travel expenses, and the same occurs with drug reimbursement. The Foundation either works directly with patients in obtaining requests for drug reimbursements, processing them and

correspondingly working with the drug companies or the PHARMA program to carry out the requests. Therefore, they intervene in these matters directly on behalf of the patients. The Foundation also works directly with the treatment centers and with physicians on delivery of services to Hemophilia patients. The preponderant, persuasive evidence derived from Petitioners' Exhibit 30 in evidence, and the testimony of Gwen Cooper, shows that the foundation provides these services directly to people in the fiscal agent areas where they were not approved by the Respondent for the 2006 campaign year.

31. The Foundation also maintains a camp for children or young people who have Hemophilia. Additionally, the Foundation provides some drug reimbursement directly to patients. The Foundation provides some emergency financial assistance directly to patients. The Foundation offers educational information, programs and services to persons with bleeding disorders. These include "Camp Spirit" for children with bleeding disorders, family retreat weekends, publication of newsletters and brochures, as well as information and referral. Because the above-referenced patient services are provided and because they are available and offered to patients from all areas of the state and not just counties where the Foundation maintains a physical presence, the Foundation should be approved as providing "direct services" in the areas applied-for.

32. The Huntington's Disease Society is an organization involved in supporting patients and families concerning this rare disease, which involves dementia. This agency applied for undesignated funds only in areas where it has a funded Huntington's Disease "Center of Excellence" and /or support groups. It was denied in the Lee County fiscal agent area and in the Northeast Florida fiscal agent area by the Respondent. The Society is affiliated with approved Huntington's Disease Centers, called Centers of Excellence, located at the University of South Florida and in Miami. It operates support groups in the fiscal agent areas applied-for and supports patients with Huntington's Disease. It provides input and education opportunities for the patients locally, as well as assisting and sending them to treatment centers for treatment. As to the Lee County and Northeast Florida fiscal agent areas, the Society only documented a local service address or support group in each of those fiscal agent areas. In the Heart of Florida area, the Society documented local services provided at Florida Hospital, including the support group, and documented 170 patients served in that fiscal agent area. In the Palm Beach fiscal agent area the Agency provided a local service address for its support group, meeting at the Pine Crest Rehabilitation Center, and documented serving 22 patients and their families in that fiscal agent area. In the Tampa Bay fiscal agent area the Agency

listed a local support group and its address, serving 20 patients and their families and also listed the Center of Excellence at the University of South Florida, describing the services offered there and documenting that 400 families were thus served. The preponderant, persuasive evidence shows that the Huntington's Disease Society provided direct services in the Heart of Florida, the Palm Beach and the Tampa Bay fiscal agent areas, but direct services were not sufficiently documented or proved with regard to the Lee County and Northeast Florida fiscal agent areas. Therefore, the Huntington's Disease Society should be allocated a share of undesignated funds as to the three fiscal agent areas recommended to be approved, referenced above.

33. The Leukemia and Lymphoma Society provides a number of forms of patient aid and support services, including patient education, assistance with payment and reimbursement for medication and co-payments. The Society employs full-time Patient Service Managers, with Masters in Social Work, with an oncology background. It sends a social worker to a patient's home to assess the patient's and the family's needs. The Society has a policy of contacting 50 percent of newly-diagnosed cancer patients within 30 days of the diagnosis. The Society also provides up to \$500 per patient per year, based upon need, to reimburse allotted expenses, drugs and co-payments. These

services, and the majority of services provided by the Society are direct patient services, without any intermediary. In fact, the Palm Beach office of the Society maintains 13 staff members with two patient managers on staff. Ultimately, based upon the testimony of Gwen Cooper and Pamela Byrne as well as the Petitioners' Exhibits 31 and 12-B, the Society was initially approved in all fiscal agent areas applied-for, except for the Big Bend area.

34. Although the society does not maintain an office in the Big Bend area, the Jacksonville office provides patient service coverage for the Big Bend area, and, in fact, service has been provided in Tallahassee, in the center of the Big Bend area. This was arranged by the Society's Jacksonville office, during the 2006 campaign. The same service was shown to be provided in the denied area, as in the approved fiscal agent areas. In all those fiscal agent areas support groups are provided, and co-facilitated by healthcare professionals, including an oncology nurse, an oncology social worker, a licensed clinical psychologist, a registered nurse and a physicians' assistant. In summary, preponderant persuasive evidence has established that The Leukemia and Lymphoma Society provides direct service to patients and their families in all fiscal agent areas applied-for.

35. During the 2006 campaign year, the March of Dimes initiated a new program involving the provision of vitamins, and especially folic acid, to pregnant women to help lower the incidence of birth defects. The March of Dimes agency also provides a great deal of informational and educational programs to the general public, healthcare professionals, and particularly women of child-bearing age, including education of women about pre-conception care, as well as early and regular pre-natal care. The Florida Chapter supported a number of nurse and physician conferences, as well as health fairs and other events designed to distribute information to women of child-bearing age concerning, especially, the issues of pre-maturity of babies and low birth weight. The March of Dimes is working with various healthcare-related partners to provide multi-vitamins free of charge to women who may not otherwise be able to afford them.

36. Additionally, the Florida chapter has awarded more than \$500,000 in state and local grants for such programs as the "Save Our Babies" project, and others, which are designed to reach high risk pregnant women to educate them on proper nutrition and pre-natal care. It also provides assistance to families coping with the stress of having premature, ill babies in neo-natal intensive care units. The Agency uses many volunteers, both laypersons and healthcare professionals, to

combat problems of birth defects and pre-mature birth rates. The March of Dimes agency was initially approved for 17 of the 27 fiscal agent areas in Florida. The testimony of witness Gwen Cooper, as well as Petitioner's Exhibit 33, in terms of showing offices or division locations and the counties served by them, establishes that the remaining 10 fiscal agent areas for which the March of Dimes was initially denied fund allocations are additional areas where the March of Dimes makes available direct services, in the manner described above.

37. The National Kidney Foundation provides services through a program of direct patient aid. It reimburses kidney patients for various medication and transportation costs. It operates a Kidney Early Evaluation Program (KEEP), which is a health screening program designed to identify individuals for increased risk for kidney disease and encourages them to seek further evaluation and physician follow-up. The Direct Aid to Patients Program is designed to financially assist patients with obtaining needed medication and transportation to treatments and medical appointments. It operates a medication grant program which enables qualified kidney patients to receive urgently needed medications, nutritional supplements, and durable medical supplies through a contracted mail-order pharmacy.

38. The Foundation's transportation grant program assists dialysis patients with the cost of transportation not covered

from other sources. The grants are limited to travel to and from treatment, doctors appointments once a month, or for transplant work-ups. There is also a one-time emergency grant program providing financial assistance to qualified kidney patients who need assistance with various household expenses or co-payment costs for durable equipment.

39. The KEEP screening program is provided at various locations throughout the state. Nurses and other persons involved in the screening process screen patients or potential patients, with blood samples and urine samples, in order to assess for kidney problems. Operation of that service involves the providers going to the individual counties to test patients, potential patients or members of the public. These services, and the reimbursement services referenced above, are essentially provided on a statewide basis. In fact, of all the fiscal agent areas in which funds were sought by the Kidney Foundation, they were only denied by the Respondent in Citrus and Santa Rosa counties.

40. The services they provided in all the other fiscal agent areas, with which there was ultimately no dispute, were the same services provided in Citrus and Santa Rosa counties. Therefore, the totality of the persuasive evidence shows that direct services, of the type described above, were provided in Citrus and Santa Rosa counties and the other fiscal agent areas

for which the National Kidney Foundation applied for undesignated funds. Consequently allocations of those funds should be approved for the National Kidney Foundation for all those fiscal agent areas.

41. The National Parkinson's Foundation has "Centers of Excellence" located throughout Florida where it provides movement therapy, support groups, rehabilitation therapy, and educational seminars, as well as doctor visits and clinics for Parkinson's disease patients. It provides related educational seminars for family members of patients. The Centers of Excellence throughout Florida provide clinical trials regarding drugs and research, education, offer symposiums, as well as support groups and therapy. In the free-form stage of this proceeding, the National Parkinson's Foundation was approved in 9 out of 10 of the fiscal agent areas for which it applied for undesignated funds. The sole fiscal agent area in which it was denied was its headquarters location in Miami. In fact, the same direct services for patients were provided from its Miami location, and in the Miami vicinity and fiscal agent area; further, a higher volume and variety of services are provided from that headquarters location.

42. Clinical trials and research are done at the centers referenced above. The center at the University of Florida is called The Parkinson Movement Disorder Center. There is also a

similar facility at the University of Miami which offers education regarding Parkinson's Disease issues, symposiums, support groups and therapy for patients. Many of the people participating in these activities are in clinical trials and some therapeutic programs in efforts to find a cure for Parkinson's disease. There is no question that the National Parkinson's Foundation, through the Florida operations at issue, provides direct services in all 10 of the fiscal agent areas that entity applied for with regard to undesignated funds. Consequently, its entitlement to appropriate allocation of undesignated funds for those 10 fiscal agent areas is established. These findings were established by the testimony of Gwen Cooper at pages 169 through 171 of the Transcript, as well as Petitioner's Exhibit 36 in evidence.

43. Prevent Blindness Florida provides vision screening for children and adults through the school systems and through various businesses who wish to promote a vision screening program. The organization also provides such a program at local Wal-Marts once a year called "Vision Day at Wal-Mart". They also provide educational materials for the Vision Centers at Wal-Mart. In January of each year they conduct a Vision Month program with the Department of Highway Safety and Motor Vehicles (DMV) and provide written vision screening information to various DMV office locations around the state. They arrange

vision screenings at DMV offices if asked to do that as well. In consideration of Gwen Cooper's testimony, it can not be definitively determined whether the Prevent Blindness Florida organization did the screenings themselves or the employer or other business host of the screening opportunities actually provided the screenings (such as Wal-Mart stores or the DMV). According to Ms. Cooper, the charity and the businesses where screenings were done worked cooperatively, but she was unable to say which entity in a given instance would have provided the screenings. Although she believes that Prevent Blindness Florida did provide some screenings themselves, she was unable to testify definitively on which occasion, and, implicitly, in which fiscal agent area this might have occurred or not occurred, as opposed to the screening efforts being provided by the host business or agency, arranged for by Prevent Blindness Florida. In light of this quality of the testimony, it cannot be deemed that the Petitioners established that Prevent Blindness Florida provided direct services in any or all instances in each fiscal agent area, as opposed to a cooperative effort, with the host business or agency of a given visual screening being an intervenor between the charity and the person ultimately served. Consequently, it has not been established that Prevent Blindness Florida provided direct services as defined in the Department's form and in the rule.

44. The Sickle Cell Disease Association of Florida (Sickle Cell), through a contract with the Department of Health, provides screenings for Sickle Cell disease in many counties in the State. The Association provides education and literature for people receiving the screenings. Much of its activities involve educating people in Florida concerning Sickle Cell disease and raising public awareness of what populations or persons might be at risk for the disease. The Association provides hemoglobin screenings and works with school districts, civic groups, churches, federal employees, and healthcare providers, in providing support, education and screening for the public. They provide the service directly to patients or citizens in the fiscal agent areas and also work with intermediaries.

45. The Association was approved for allocation of undesignated funds in 13 fiscal agent areas. It was denied in the Central Florida, Citrus, Collier, Hernando, Lake/Sumter, Martin, Northwest, Okaloosa, Okeechobee, Pasco, St. Lucie, Santa Rosa, Sarasota, and Suwannee Valley fiscal agent areas. However, the service provided in the 13 areas where the Association was approved is no different than the service provided in the areas where it was denied. There is no clear evidence of record concerning the rationale for the denials. The evidence embodied in Gwen Cooper's testimony as well as

Petitioner's Exhibit 38 indicates that a substantial portion of the services provided by the Sickle Cell Association are direct services without an intermediary. Therefore, on balance, it is determined that the Association should be approved in all the fiscal agent areas for which it applied.

46. In summary, the testimony and evidence discussed above is preponderant and persuasive. It established that the charities addressed in the above findings of fact, for which entitlement to the undesignated funds at issue was found to be justified, provided their services directly and without intervention in the fiscal agent areas referenced by the above findings of fact. Thus, their requests for undesignated funds, as to those fiscal agent areas in which the above findings of fact determine that they provided such services, should be approved.

47. The above findings of fact also show that the Association for Retarded Citizens of Florida, Florida Hospices and Palliative Care Association and the National Alliance for the Mentally Ill of Florida, based upon the preponderant evidence of record, did not provide "direct services" in the manner defined in the referenced rule and in the form used by the Steering Committee, and the applicant charities, in the 2006 campaign reporting. Therefore, the request for entitlement to the undesignated funds as to these named charities should be

denied. Moreover, the Petitioner, Community Health Charities of Florida (CHC), although a party, is, undisputedly, not an applicant for such funds. It was the umbrella or administrator organization acting on behalf of the Petitioner member charities.

CONCLUSIONS OF LAW

48. The Division of Administrative Hearings has jurisdiction of the subject matter and parties to this proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2008), and Community Health Charities of Florida v. Dept. of Management Services, 7 So. 3d 570(Fla. 1st DCA 2009).

49. The burden of proof in this matter is by a preponderance of the evidence, which must be viewed and considered in a de novo, context. § 120.57(1),(j),(k), Florida Statutes (2008); Hamilton County Commissioners v. Dept. of Environmental Regulation, 587 So. 2d 1378, 1387 (Fla. 1st DCA 1991). The Petitioners have the burden to establish that the member charities provided "direct services" within the meaning of Section 110.181(2)(e), Florida Statutes (2007), and Florida Administrative Code Rule 60L-39.0015(1)(i). See Florida Dept. of Transportation v. J.W.C. Company, Inc., 396 So. 2d 778, 787 (Fla. 1st DCA 1981).

50. Section 110.181, Florida Statutes (2007) sets forth the requirements of the FSECC that applied to the 2006 campaign,

including the method of distribution of undesignated funds:
"[P]articipating charitable organizations that provide direct services in a local fiscal agent area shall receive the same percentage of undesignated funds as the percentage of designated funds they receive." Sections 110.181 (2)(e), Fla. Stat. The terms "direct" or "services" are not defined by this statutory section, nor the phrase "direct services". That phrase was interpreted by the Respondent agency in its rule to mean "[I]dentifiable and specific services available in the local fiscal agent area without any intervention between the services offered and persons served." Fla. Admin. Code R. 60L-39.0015(1)(i).

51. Apart from declaring that "services" must be "identifiable and specific," the rule does not elaborate on activities that qualify as "services" nor what is meant by "intervention between the services offered and persons served." Deciding what is or is not a "service" and what is offered to persons served, with or without such intervention, is a matter that must be determined by considering the plain and ordinary meaning of the statutory text and the language of the above rule. The statute offers no distinction between the services provided by one particular charity, which may be reimbursement funds for purchase of drugs or of another which may be the mere provision of newsletters or may, in the case of another charity

be the offering and operation of support groups and educational programs. In fact, a "service" is deemed to be anything of benefit or potential benefit offered to another person or entity.

52. The language of the above rule is interpreted to mean that the thing of benefit or potential benefit must come directly to the person receiving it or entity receiving it from the offerer of the service (charity) with no intervening person or entity actually providing the service directly to the person or entity served.

53. The primary question in considering the question of the entitlement of each of the above charities to the subject funds involved not so much an emphasis on whether the benefit being provided constituted a service, but rather whether there was any intervening person or agency involved in the actual delivery of the service to the person or entity served. That consideration, as well as the question of where the service was being provided in relation to the fiscal agent areas, was the pivotal part of the thought process in making the above findings of fact concerning which charities proved entitlement to the allocation of the subject funds, and in what areas they established such entitlement. Part of the reason leading to the determination in the findings of fact that many or most charities proved some level of entitlement lies also in the fact

that many things, under the language of the above statute and rule, can be defined as "services."

54. In view of these considerations and in light of the testimony and evidence referenced above, which was considered in arriving at the above findings of fact, the preponderant, persuasive evidence showed that the above-referenced Petitioners, proved their entitlement to the allocation of undesignated funds from the FSECC campaign for 2006, in the manner and for the areas delineated in the above findings of fact, with the exception of The Association of Retarded Citizens of Florida, Florida Hospices and Palliative Care Association, The National Alliance for the Mentally Ill, and Prevent Blindness Florida, which did not establish the provision of direct services in the fiscal agent areas applied-for.

RECOMMENDATION

Having considered the foregoing findings of fact, conclusions of law, the evidence of record, and the pleadings and arguments of the parties, it is, therefore,

Recommended that a final order be entered determining that the Petitioner charities named above provided direct services in the manner and in the fiscal agent areas referenced in the above findings of fact, for the 2006 FSECC campaign and that they be entitled to their statutory share of undesignated funds, with the exception of The Association of Retarded Citizens of

Florida, Florida Hospices and Palliative Care Association, The National Alliance for the Mentally Ill, and Prevent Blindness Florida.

DONE AND ENTERED this 5th day of August, 2009, in Tallahassee, Leon County, Florida.



P. MICHAEL RUFF
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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.