

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

VENICE NH, LLC d/b/a SUNSET  
LAKE HEALTH AND REHAB CENTER,

2014 AUG 25 P 2: 06

Petitioner,

DOAH CASE NO. 14-0024  
ENGAGEMENT NO. NH10-037C

vs.

RENDITION NO.: AHCA- 14 -0738 -FOF-MDA

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Respondent.

**FINAL ORDER**

This case was referred to the Division of Administrative Hearings where the assigned Administrative Law Judge (“ALJ”), Elizabeth W. McArthur, conducted a formal administrative hearing. At issue in this proceeding is whether a tax on a warranty deed is an allowable property cost, as claimed in Petitioner’s Medicaid cost report. The Recommended Order dated July 25, 2014, is incorporated herein by reference.

**RULINGS ON EXCEPTIONS**

Respondent filed exceptions. In determining how to rule upon the Respondent’s exceptions and whether to adopt the ALJ’s Recommended Order in whole or in part, the Agency must follow Section 120.57(1)(l), Florida Statutes, which provides in pertinent part:

The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of

findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. . . .

Fla. Stat. § 120.57(1)(I). In accordance with these legal standards, the Agency makes the following rulings on the Respondent's exceptions:

In Respondent's sole exception to the Recommended Order, Respondent takes exception to the ALJ's Recommendation that the Agency enter a final order disallowing \$12,203.80 claimed as a property tax expense in Petitioner's initial Medicaid cost report. According to Respondent, the ALJ's Recommendation does not take into account the findings of fact in Paragraph 6 of the Recommended Order, wherein the ALJ found that "[t]he only remaining dispute to be resolved in this proceeding is whether audit adjustment number four, which disallowed \$49,540.00 of costs in the category of "Property Taxes – Real Estate," should be reduced by \$12,203.80." In other words, the issue in this case is whether the \$49,540.00 disallowed by the Agency should instead have been \$37,336.20. The ALJ's Recommendation, while not clearly worded, does state the Agency was correct in its initial determination. Thus, there is no need to reject or modify the Recommendation in the Recommended Order since stating that the Agency's audit of Petitioner's initial Medicaid cost report audit is upheld is functionally equivalent to the ALJ's Recommendation. Therefore, the Agency denies Respondent's exception.

#### **FINDINGS OF FACT**

The Agency hereby adopts the findings of fact set forth in the Recommended Order.

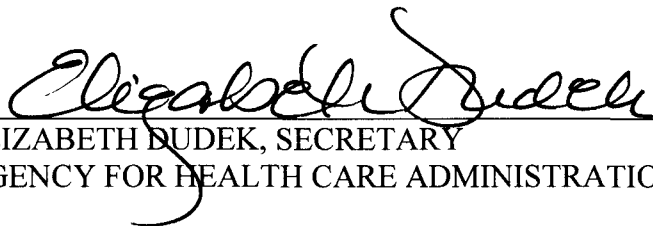
#### **CONCLUSIONS OF LAW**

The Agency hereby adopts the conclusions of law set forth in the Recommended Order.

**ORDER**

Based upon the foregoing, the Agency's October 15, 2011 Medicaid cost report audit is hereby upheld. The parties shall govern themselves accordingly.

**DONE and ORDERED** this 25 day of August, 2014, in Tallahassee, Florida.

  
ELIZABETH DUDEK, SECRETARY  
AGENCY FOR HEALTH CARE ADMINISTRATION

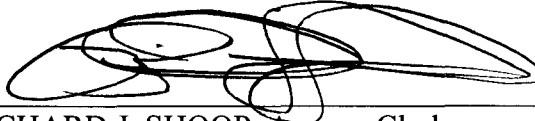
**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO A JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A SECOND COPY ALONG WITH THE FILING FEE AS 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 RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail, or by the method indicated, to the persons named below on this

25<sup>th</sup> day of August, 2014.



---

RICHARD J. SHOOP, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308-5403  
(850) 412-3630

COPIES FURNISHED TO:

Honorable Elizabeth W. McArthur  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

Peter A. Lewis, Esquire  
Law Offices of Peter A. Lewis, P.L.  
3023 North Shannon Lakes Drive  
Suite 101  
Tallahassee, Florida 32309

Karen A. Brodeen, Esquire  
Kristen Bigham, Esquire  
Office of the Attorney General  
Plaza Level 01  
The Capitol  
Tallahassee, Florida 32399-1050

Zainab Day  
Medicaid Program Analysis