

Petition for Declaratory Statement
Before The Florida Building Commission

Date: July 25, 2019
Company: WeCare Pediatric Extended Care, Corp.
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DS 2019-048

Statute, Agency Rules, Agency Orders, and/or Code Sections on which the Declaratory Statement is sought:

FBC 2017, section 304.1 Business Group B

Background:

WeCare Pediatric Extended Care, Corp. (WeCare PPEC) is a Prescribed Pediatric Extended Care (PPEC) center that allows Medicaid eligible children from birth through age 20 with medically-complex conditions to receive continual medical care in a non-residential setting. When approved, children can attend a PPEC up to a maximum of 12 hours per day while receiving nursing services, personal care, developmental therapies, and caregiver training. WeCare PPEC is seeking to open a new center as a FBC 2017 Section 304.1 Business Group B. Currently, Prescribed Pediatric Extended Care (PPEC) centers are not defined, or do not have a statute, under the current Florida Building Code.

Florida Building Code Definitions

304.1 Business Group B.

Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts. Business occupancies shall include, but not be limited to, the following:

- Airport traffic control towers
- **Ambulatory care facilities**
- Animal hospitals, kennels and pounds
- Banks

- Barber and beauty shops
- Car wash
- Civic administration
- Clinic, outpatient
- Dry cleaning and laundries: pick-up and delivery stations and self-service
- Educational occupancies for students above the 12th grade
- Electronic data processing
- Food processing establishments and commercial kitchens not associated with restaurants, cafeterias and similar dining facilities not more than 2,500 square feet (232 m²) in area.
- Laboratories: testing and research
- Motor vehicle showrooms
- Post offices
- Print shops
- Professional services (architects, attorneys, dentists, physicians, engineers, etc.)
- Radio and television stations
- Telephone exchanges
- Training and skill development not in a school or academic program (this shall include, but not be limited to, tutoring centers, martial arts studios, gymnastics and similar uses regardless of the ages served, and where not classified as a Group A occupancy).

304.2 Definitions

The following terms are defined in Chapter 2:

AMBULATORY CARE FACILITY.

Section 202 - Definitions

Ambulatory Care Facilities: Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to persons who are rendered *incapable of self-preservation* by the services provided.

MEDICAL CARE: Care involving medical or surgical procedures, nursing or for psychiatric purposes.

INCAPABLE OF SELF-PRESERVATION. Persons who, because of age, physical limitations, mental limitations, chemical dependency or medical treatment, cannot respond as an individual to an emergency situation.

*** Information regarding Prescribed Pediatric Extended Care Services Coverage Policy, according to the Florida Medicaid/Agency for Health Care Administration, February 2018:

1.0 Introduction

1.1 Description

Florida Medicaid Prescribed Pediatric Extended Care Services Coverage Policy

Florida Medicaid Prescribed Pediatric Extended Care (PPEC) services provide skilled nursing supervision and therapeutic interventions in a non-residential setting to medically dependent or technologically dependent recipients.

Florida Medicaid Policies

This policy is intended for use by PPEC providers that render services to eligible Florida Medicaid recipients. It must be used in conjunction with Florida Medicaid's General Policies (as defined in section 1.3) and any applicable service-specific and claim reimbursement policies with which providers must comply.

Note: All Florida Medicaid policies are promulgated in Rule Division 59G, Florida Administrative Code (F.A.C.). Coverage policies are available on the Agency for Health Care Administration's (AHCA) Web site at

Statewide Medicaid Managed Care Plans

This is not a covered service in the Statewide Medicaid Managed Care program.

1.2 Legal Authority

Prescribed pediatric extended care services are authorized by the following:

- Title XIX of the Social Security Act (SSA)

- Title 42, Code of Federal Regulations (CFR), sections 440.130, 440.167, and 441.61
- Chapter 409.905, Florida Statutes (F.S.)
- Rule 59G-4.260, F.A.C.

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 (ADL)**
As defined in Rule 59G-1.010, F.A.C.
- **1.3.2 Claim Reimbursement Policy**
A policy document found in Rule Division 59G, F.A.C. that provides instructions on how to bill for services.
- **1.3.3 Coverage and Limitations Handbook or Coverage Policy**
A policy document found in Rule Division 59G, F.A.C. that contains coverage information about a Florida Medicaid service.
- **1.3.4 Full Day**
Five to twelve hours of PPEC services rendered in one day.
- **1.3.5 General Policies**
A collective term for Florida Medicaid policy documents found in Rule Chapter 59G-1, F.A.C. containing information that applies to all providers (unless otherwise specified) rendering services to recipients.
- **1.3.6 Instrumental Activities of Daily Living (IADL)**
As defined in Rule 59G-1.010, F.A.C.

- **1.3.7 Medically Necessary/Medical Necessity**
As defined in Rule 59G-1.010, F.A.C.
- **1.3.8 Partial Day**
Four hours or less of PPEC services rendered in one day.

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- **1.3.9 Provider**

The term used to describe any entity, facility, person or group enrolled with AHCA to furnish services under the Florida Medicaid program in accordance with the provider agreement.

- **1.3.10 Recipient**

For the purpose of this coverage policy, the term used to describe an individual enrolled in Florida Medicaid (including managed care plan enrollees).

2.0 Eligible Recipient

General Criteria

An eligible recipient must be enrolled in the Florida Medicaid program on the date of service and meet the criteria provided in this policy.

Provider(s) must verify each recipient's eligibility each time a service is rendered.

Who Can Receive

Florida Medicaid recipients under the age of 21 years requiring medically necessary PPEC services and who:

- Require continuous therapeutic interventions or skilled nursing supervision, as described in section 400.902, F.S. and in Rule 59A-13.007, F.A.C.

- Are determined medically stable by a physician and who are not a threat to self or others Some services may be subject to additional coverage criteria as specified in section 4.0.
- **Coinsurance and Copayments**
There is no coinsurance or copayment for this service in accordance with section 409.9081, F.S. For more information on copayment and coinsurance requirements and exemptions, please refer to Florida Medicaid's General Policies on copayment and coinsurance.

3.0 Eligible Provider

- **3.1 General Criteria**
Providers must meet the qualifications specified in this policy in order to be reimbursed for Florida Medicaid PPEC services.
- **3.2 Who Can Provide**
Services must be rendered by prescribed pediatric extended care centers licensed in accordance with Chapter 400, Part VI, F.S., and Rule 59A-13.004, F.A.C.

4.0 Coverage Information

- **4.1 General Criteria**
Florida Medicaid covers services that meet all of the following:
 - Are determined medically necessary
 - Do not duplicate another service
 - Meet the criteria as specified in this policy
- **4.2 Specific Criteria**
Florida Medicaid covers PPEC services provided in accordance with section 400.902, F.S., the applicable Florida Medicaid fee schedule, or as specified in this policy, on a full or partial day basis. Services must

include the following at a minimum:

Caregiver training
Developmental therapies

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- An appropriate escort for travel to and from the PPEC when Florida Medicaid non-emergency transportation is provided
- Medical services
- Nursing services
- Personal care services
- Psychosocial services
- Respiratory therapy services
The PPEC day begins when the recipient arrives at the PPEC or is picked up for escorted transportation to the PPEC.
The PPEC day ends when the recipient departs from the PPEC for the day or is returned home by escorted transportation from the PPEC.

4.3 Early and Periodic Screening, Diagnosis, and Treatment

As required by federal law, Florida Medicaid provides services to eligible recipients under the age of 21 years, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. Included are diagnostic services, treatment, equipment, supplies, and other measures described in section 1905(a) of the SSA, codified in Title 42 of the United States Code 1396d(a). As such, services for recipients under the age of 21 years exceeding the coverage described within this policy or the associated fee schedule may be approved, if medically necessary. For more information, please refer to Florida Medicaid's General Policies on authorization requirements.

Question:

Is the Prescribed Pediatric Extended Care center considered a Florida Building Code 2017, Section 304.1 Business Group B occupancy?

Summary:

Petitioner respectfully believes the answer to the question outlined above is "YES". Petitioner believes that the definition of the Florida Building Code 2017, Section 304.1 Business Group B occupancy best represents the true occupancy of a Prescribed Pediatric Extended Care (PPEC) center. As listed above, please review the definition of a PPEC, as described by the Agency for Health Care Administration, and Florida Medicaid.

Petitioner is seeking to possibly open this facility in south Broward County, such as Miramar, Pembroke Pines, Davie, etc. However, we need clarification as to the Florida Building Code occupancy before we decide on a specific location for our center. Due to certain information we have received from licensed general contractors and city officials on certain properties we have seen, it has come to our attention that many properties may not be suitable for us because of current FBC 2017 codes and regulations and may negatively affect us. This hinders us from not only being able to commit to a location, but also considerably hurts us financially due to many potential modifications that need to be done to the properties, which can set us back several months from launching our center.

Should the commission approve a Section 304.1 Business Group B occupancy, it can open up the door for us to not only commit to a location that may be in need of our services, but also allow us to operate in a sustainable financial manner for the long term.

We humbly appreciate the time, consideration, and understanding of this matter, and looks forward to hearing back from the commission soon.

Respectfully submitted,

WeCare Pediatric Extended Care, Corp.

By:  _____

Sylvianne L. Cata
President

Date: July 25, 2019