

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANGEL HOUSE ASSISTED LIVING,
INC.,

Petitioner,

vs.

Case No. 26-4378RU

FLORIDA HOUSING FINANCE
CORPORATION AND AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

_____ /

FINAL ORDER OF DISMISSAL WITH PREJUDICE

This is an unadopted rule challenge, in which Petitioner seeks to challenge alleged statements of two different agencies, Florida Housing Finance Corporation (FHFC) and the Agency for Health Care Administration (AHCA). The alleged statements that Petitioner claims to be unadopted rules both have an impact on Petitioner's financial viability, but represent very different issues. The case is currently scheduled for hearing on October 29, 2026.

On September 17, 2026, a Final Order of Dismissal without Prejudice was issued, which stated that Petitioner's Amended Petition did not identify the statements made by either agency that it claimed were unadopted rules and did not allege that the statements were agency statements. A procedural history of the proceeding up to the point of the Final Order of Dismissal without Prejudice is included in that Order.

On September 30, 2026, Petitioner filed a Second Amended Petition Challenging an Unadopted Administrative Rule Pursuant to Section 120.56(4), Florida Statutes. On October 1, 2026, AHCA filed a Motion to Dismiss Second Amended Petition, and on October 2, 2026, FHFC filed a Motion to Dismiss Second Amended Petition.

Petitioner in this case is pro se, and appears to have been "aided" by artificial intelligence, or influenced by the desire to make the writing "scholarly." As a result, much of what Petitioner may be trying to say is lost in excessive verbiage. Despite the convoluted nature of Petitioner's writing

style, the undersigned has endeavored to sort through Petitioner's claims and find the agency statements she was directed to provide. Unfortunately, this quest was in vain.

AHCA's Motion to Dismiss

AHCA asserts that the Second Amended Petition fails to establish how the alleged agency statement is an unadopted rule; how that statement creates the alleged harm (i.e., the decision to deny financing made by non-agency lenders); or how the agency statement requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law.

As a starting point, AHCA states that the Second Amended Petition identifies the AHCA "agency statement" at paragraph 19 as follows:

The agency shall utilize a flat, non-tiered master voucher standard under Billing Code T2030 to reimburse vastly different types of intensive client care work at an identical dollar baseline, completely ignoring state-mandated staffing densities at different size facilities.^[1]

Both Petitioner and AHCA point to Exhibit C² of the Second Amended Petition as the source of the statement. However, an examination of Exhibit C shows that AHCA is not the source of the statement. Part of Exhibit C is an email response addressed to Doreen Campbell, Petitioner's owner, from Christina Leckinger, a government operations consultant for AHCA's Medicaid Policy Office. The email addresses, in part, Petitioner's concern regarding Billing Code T2030,³ with the stated problem identified by Petitioner and the response by AHCA as follows:

¹ It is inconceivable to the undersigned that an agency would author a statement that indicates that it is "completely ignoring state-mandated staffing densities at different size facilities."

² Petitioner has filed a series of "exhibits" since filing the Second Amended Complaint (and did so with respect to the first two petitions as well). Some of these "exhibits" are referenced in the Second Amended Petition, and it is assumed that Petitioner intended for them to be incorporated by reference. Petitioner confirmed this intention during the Scheduling Conference conducted on October 6, 2026.

³ Billing Code T2030 is a standard billing code used in order for assisted living facilities to receive reimbursements. Petitioner does not explain the basis of the code; whether it is authored by AHCA or some other entity; or whether it has been adopted as a rule.

1. Actuarial Realignment of Billing Code T2030

The current flat-rate reimbursement pays an identical voucher regardless of facility scale. This creates an operational misalignment: a small 6-bed neighborhood home is legally mandated to provide 35.3 care hours per resident/week (212 total staff hours). Conversely, a 100-bed corporate facility utilizes a sliding scale grid requiring only 4.5 to 5.8 care hours per resident/week. We request a tier-based realignment to slice this corporate excess by \$600 and allocate it to frontline caregivers delivering high-density care.

Response: Thank you for your recommendation regarding the reimbursement methodology associated with Billing Code T2030. The Agency has referred this issue to its actuarial contractor for consideration during ongoing rate development activities. Under the Statewide Medicaid Managed Care (SMMC) program, the Agency develops actuarially sound capitation rates for managed care plans; *however, the Agency does not prescribe how plans reimburse individual assisted living facilities. Each managed care plan negotiates reimbursement with its contracted providers, and the SMMC contract does not require plans to reimburse all facilities using a uniform or flat methodology.*

On its face, the statement attributable to AHCA is not in the email. Further, AHCA's response expressly states that AHCA does not prescribe how plans (which are not part of the agency itself) reimburse individual facilities. The statement does not require compliance, create certain rights while adversely affecting others, or otherwise have the direct and consistent effect of law. *Dep't of Fin. Servs. v. Capital Collateral Regul. Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

Petitioner describes the language at the end of this email as being a "distinction without a difference." But the Administrative Procedure Act requires that the statement meeting the definition of a rule must be an agency statement. *See Fla. Ass'n for Child Care Mgmt., Inc. v. Early Learning Coal. of Duval, Inc.* Case No. 08-1717RU (Fla. DOAH Aug. 26, 2008) (although school readiness program developed by an early learning coalition

was reviewed by state agency, that review did not transform the program into an agency statement). “A private entity which contracted to provide services for a state agency does not thereby become a state agency itself.” *Vey v. Bradford Union Guidance Clinic, Inc.*, 399 So. 2d 1137, 1139 (Fla. 1st DCA 1981); *see also First Quality Home Care, Inc. v. All. for Aging, Inc.*, 14 So. 3d 1149, 1153 (Fla. 3d DCA 2009).

Moreover, in its Omnibus Response in Opposition to Respondents’ Motions to Dismiss Second Amended Petition, Petitioner states (in bold) that “Section 120.54(2)(a), F.S., explicitly commands that agencies *shall* consider the impact of rules on small businesses and implement tiering methods to minimize economic destruction.” Section 120.54(2)(a), Florida Statutes, does *not* contain this language. Section 120.54(2)(a) states, in its entirety:

(2) RULE DEVELOPMENT; WORKSHOPS;
NEGOTIATED RULEMAKING.—

(a)1. Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Register at least 7 days before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development must:

- a. Indicate the subject area to be addressed by rule development.
- b. Provide a short, plain explanation of the purpose and effect of the proposed rule.
- c. Cite the grant of rulemaking authority for the proposed rule and the law being implemented.
- d. Include the proposed rule number and, if available, either the preliminary text of the proposed rule and any incorporated documents, or a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft of such rule or documents.

2. A notice of a proposed rule must be published in the Florida Administrative Register within 180 days after the most recent notice of rule development, unless the Legislature expressly provides a different date. The agency may only exceed this timeframe if it submits to the committee, at least 7 business days before the end of the 180-day timeframe, a concise statement that identifies the reasons for the delay in

rulemaking. The agency must update this statement each quarter thereafter until it has filed a notice of proposed rule in the applicable manner.

Section 120.541(2)(a), as opposed to section 120.54(2)(a), discusses the requirements for a statement of estimated regulatory costs, and addresses the impact of a proposed rule (or amendment to an existing rule) on small businesses, as defined in section 288.703, Florida Statutes. However, nothing in section 120.541(2)(a) requires the implementation of tiering methods to minimize economic destruction. “Tiering” of proposed rules is discussed in section 120.54(3)(b)2., which directs an agency to tier its rules “whenever practicable” to minimize the impact on small businesses, and discusses the methods for doing so. It is not clear, however, whether Petitioner is seeking an adjustment to an existing rule to alleviate its effect on small businesses, or pointing out a problem related to what it considers to be an agency statement meeting the definition of a rule. If it is the former, Petitioner has chosen the wrong method. If it is the latter, Petitioner must first demonstrate that an agency statement meeting the definition of a rule exists. Petitioner has not done so in this case with respect to AHCA.

Florida Housing Finance Corporation’s Motion to Dismiss

With respect to FHFC, the Second Amended Petition states: “conventional and commercial lending networks categorically refuse to provide funding under any market conditions or at any interest rate, explicitly utilizing unwritten automated screening scripts to block standard portfolio renewals the moment an active state healthcare registry is detected on a 1-to-4 family residential parcel.”

Exhibit D of the Second Amended Petition is a listing of the lending denials Petitioner has experienced.⁴ All but one appear to be descriptions of “lending denials” from private lending institutions or county housing authorities. The one exception is the state apartment incentive loan (SAIL) through the FHFC. Petitioner alleges that FHFC implements the requirement that an applicant provide “proof of millions of dollars in multi-family commercial project development volume ... bears zero rational relationship to the preservation of an independent, pre-existing 6-bed neighborhood care lifeboat, capital-starving the community-scale 4-15 bed care assets that operate within standard 1-to-4 family residential footprints.”

⁴ The “lending denials” are Petitioner’s description of what she perceives to have occurred, and are not actual communications from any financial or governmental entity, and are not “statements” made by those entities.

The most understandable portion of Petitioner's challenge is at paragraph 10 of the Second Amended Petition, in which Petitioner states,

Pursuant to Section 429.01(2), Florida Statutes, the Florida Legislature enacted a strict public policy mandate requiring that care facilities be developed to preserve a protected, authentic "homelike environment." To fulfill this baseline, the Legislature established under Section 419.001(2), Florida Statutes, that an independent 6-bed neighborhood footprint is legally deemed a non-commercial, single-family residential use by right, which federal underwriters mirror under Fannie Mae Selling Guidelines. It does not get more homelike than an actual 6-bed single-family house such as Angel House. Respondent FHFC's unwritten underwriting statement completely subverts this statutory framework. By executing an automated credit overlay that summarily reclassifies a standard 1-to-4 family residential parcel as a commercial risk solely due to the presence of an active AHCA health registry, Respondent FHFC forces an artificial commercial infrastructure requirement onto the most literal manifestation of the state's homelike mandate. This direct conflict between the health-licensure mandate and the housing-finance gate function as an invalid, uncodified rule that violates Section 120.54(1)(a), Florida Statutes.

Petitioner's argument is based, at least in part, on a misunderstanding of the statutory framework to which it cites. For example, section 429.01(2) does not mandate anything. It states that "the purpose of this act is to *promote* the availability of appropriate services for elderly persons and adults with disabilities in the least restrictive and most homelike environment. ...". Similarly, section 419.001(2) provides that homes of six or fewer residents which otherwise meet the definition of a community residential home "shall be deemed a single-family unit and a noncommercial, residential use *for the purpose of local laws and ordinances*." Petitioner does not allege that an application for a loan is governed by local laws and ordinances.

Further, the SAIL program is meant for the financing of housing for very low-income persons, and program funds are, by statute, made available through a competitive solicitation process. See § 420.5087, Fla. Stat. It is not designed to provide funding for individual homes. To require individual property owners to go through a competitive bid process for a loan would be antithetical to the purpose of the statute. Petitioner has not alleged that Angel House otherwise qualifies to participate in the SAIL program, and from what has been alleged, it does not appear that such allegations can be made.

Petitioner repeatedly states that FHFC “implements” a rigid underwriting standard. But the Second Amended Petition’s failure is with meeting the criteria required by section 120.56(4). The statute is not concerned so much with implementation (although implementation may be crucial to determining whether a statement is of general applicability). It is concerned with whether the statement about which Petitioner complains is a statement of the agency. The Second Amended Petition still fails to identify the alleged statement as a statement of FHFC.

Petitioner’s concern appears to be with a credit underwriting policy, used by many entities, both public and private. This credit underwriting policy is not a statement by FHFC, and Petitioner does not allege it to be.

Based on a careful review of the arguments of all parties, it is found that Petitioner has not alleged a statement by either AHCA or FHFC that could be the basis for an unadopted rule. Petitioner has already amended the Petition twice, and was provided specific instructions regarding what was missing in her Petition. No further opportunity to amend is required. Accordingly, it is

ORDERED:

1. The hearing scheduled for October 29, 2026, is canceled.
2. Respondents’ Motions to Dismiss are granted.
3. The Second Amended Petition is dismissed with prejudice.

DONE AND ORDERED this 13th day of October, 2026, in Tallahassee, Leon County, Florida.

A handwritten signature in cursive script, reading "Lisa Shearer Nelson". The signature is written in black ink and is positioned above a horizontal line.

LISA SHEARER NELSON
Administrative Law Judge

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Filed with the Clerk of the
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this 13th day of October, 2026.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.