An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-241

No. COA20-681

Filed 1 June 2021

Mecklenburg County, No. 19-CVS-1265

FAMILY INNOVATIONS, LLC, Petitioner,

v.

CARDINAL INNOVATIONS HEALTHCARE SOLUTIONS, Respondent.

Appeal by Petitioner from order entered 20 April 2020 by Judge George C. Bell in Mecklenburg County Superior Court. Heard in the Court of Appeals 28 April 2021.

Tin Fulton Walker & Owen, PLLC, by John W. Gresham, for Petitioner-Appellant.

Wyrick Robbins Yates & Ponton LLP, by J. Blakely Kiefer, Charles George, and Frank Kirschbaum, for Respondent-Appellee.

DILLON, Judge.

¶ 1 Petitioner-Appellant Family Innovations, LLC, ("Family Innovations") appeals from the Order Affirming Final Decision Granting Summary Judgment entered 20 April 2020. After careful review, we affirm.

I. Background

¶ 2 Respondent-Appellee Cardinal Innovations Healthcare Solutions ("Cardinal") is a Managed Care Organization ("MCO") under 42 C.F.R. § 438.2 (2018) and Local

Management Entity ("LME") under N.C. Gen. Stat. § 122C-115.4 (2018). Under the supervision of the North Carolina Department of Health and Human Services, Cardinal provides and oversees Medicaid and related services in about twenty (20) North Carolina counties. Family Innovations is a health care provider.

¶ 3 In 2013, Family Innovations and Cardinal entered into an agreement (the "Contract"). Pursuant to the Contract, Family Innovations agreed to provide certain services to Medicaid beneficiaries of Cardinal, and Cardinal agreed to reimburse Family Innovations for those services. The Contract incorporated certain general conditions ("General Conditions"). The General Conditions allowed Cardinal to remove a service from the Contract for "no reason or any reason," as follows:

> Cardinal Innovations reserves the right, in its sole discretion, at any time during the term of the Contract to remove one or more services provided by Contractor at one or more identified Corporate/Site Addresses from the Contract for no reason or any reason, including, but not limited to, closed-network provider capacity maintenance, Client health and safety, Contractor not meeting Client demand and/or needs, Contractor quality management, or any other reason Cardinal Innovations deems necessary to manage its closed network of providers. Cardinal Innovations shall provide Contractor with thirty (30) days written notice prior to the removal of a service.

¶ 4 In March 2015, about two years into the Contract, Cardinal conducted a utilization review of Family Innovations' Peer Support Services. Family Innovations received a score of 74%, below the passing score of 80%. As a result, Cardinal

established a plan of correction for Family Innovations to follow in order to improve its score. However, by December 2017, Family Innovations had not improved, receiving a score of 67.7%. As a result, in March 2018, Cardinal notified Family Innovations that it would terminate Peer Support Services from the Contract. The termination would take effect in September 2018.

¶ 5 Family Innovations requested a reconsideration; however, Cardinal's Reconsideration Committee upheld the decision. On 13 July 2018, Family Innovations filed a Petition for Contested Case in the Office of Administrative Hearings disputing Cardinal's decision to terminate the Peer Support Services from the Contract. The administrative law judge (the "ALJ") granted summary judgment for Cardinal. On appeal, the superior court affirmed this decision. Family Innovations appealed to our Court.

II. Analysis

¶ 6 Family Innovations argues on appeal that the superior court committed reversible error by affirming the ALJ's grant of summary judgment. We disagree.

¶ 7 We review the grant or denial of summary judgment *de novo* on appeal. *Craig v. New Hanover Cnty Bd. of Educ.*, 363 N.C. 334, 337, 678 S.E.2d 351, 354 (2009). Under *de novo* review, our court "considers the matter anew and freely substitutes its own judgment for that of the lower tribunal." *Id.* at 337, 678 S.E.2d at 354 (internal quotation marks omitted).

¶ 8 It is well-settled that "[w]hen the language of a contract is clear and unambiguous, construction of the contract is a matter of law for the court." *Hagler v. Hagler*, 319 N.C. 287, 294, 354 S.E.2d 228, 234 (1987).

¶ 9 During discovery before the Office of Administrative Hearings, Family Innovations admitted that: (1) it was bound by the terms of the Contract and General Conditions, and (2) it understood that the General Conditions allowed Cardinal to terminate a service from the Contract for no reason. Despite these admissions, Family Innovations relied on evidence from its own reviewers who apparently audited the Peer Support Services and awarded Family Innovations much higher scores.

¶ 10 Under the unambiguous terms of the Contract, Cardinal was expressly permitted to terminate a service with Family Innovations for "no reason or any reason." Cardinal was permitted to terminate a service from the Contract for no reason at all, and Family Innovations understood it was bound by these terms. Accordingly, it is immaterial whether Cardinal was mistaken in its evaluation of Family Innovations' performance.

¶ 11 In a previous unpublished case from our Court, we reached the same conclusion. *See Serenity Counseling & Res. Ctr. v. Cardinal Innovations Healthcare Sols.*, 256 N.C. App. 399, 806 S.E.2d 74, 2017 N.C. App. LEXIS 927 (2017) (unpublished). The case involved an almost identical contract between Cardinal and another provider, with whom Cardinal canceled a service. *Id.* at *2-4. Although the

Serenity Counseling case involved more issues, our Court used the same reasoning to affirm the lower court's motion to dismiss. *Id*. at *7. We find the case persuasive here.

III. Conclusion

¶ 12 We affirm the superior court's order upholding the ALJ's award of summary judgment.

AFFIRMED.

Judges ARROWOOD and WOOD concur.

Report per Rule 30(e).