

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES
OFFICE OF APPEAL HEARINGS

FILED

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OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-03265

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 17 Broward
UNIT: AHCA

RESPONDENT.
_____ /

FINAL ORDER

Pursuant to notice, an administrative hearing was convened before the undersigned hearing officer on June 25, 2009, at 9:00 a.m., in Fort Lauderdale, Florida. The hearing was rescheduled from June 3, 2009 at the petitioner's request. The petitioner was not present, and was represented by her mother The Agency was represented Ken Hamblin, program operations administrator. Present on the telephone from Kepro was Melanie Clyatt, registered nurse review operations supervisor. Present on the telephone from the Children's Medical Services was Mary Holshmand, regional nursing director; Kathy Sandy, nursing supervisor; Lidiete Nieto, nursing supervisor; and Kevin Dottin, program services counselor.

ISSUE

At issue is the Agency's March 6, 2009 action of canceling the petitioner's home health aide services for children, and be taken off of the Children's Medical Services

Network (CMSN) Plan, because he reached the age of 21 years old on March 26, 2009.

The respondent has the burden of proof.

FINDINGS OF FACT

1. The petitioner, date of birth [redacted], is 21 years old. He has been receiving home health aide services for children, and Children's Medical Services Network (CMSN) benefits until March 25, 2009, because he reached the age of 21 years old.
2. Included in the evidence is a copy of a notice to the petitioner from the CMSN dated March 6, 2009, stating that due to reaching the age of 21 years old on [redacted] 2009, the Medicaid Program AHCA was requested to take him out of the CMSN Plan.
3. Included in the evidence is a copy of a Recipient Denial Letter dated April 20, 2009, stating that the request for home health aide services for the petitioner was approved for 36 hours, and denied for 314 hours from March 1, 2009 to March 25, 2009.
4. Ms. Clyatt explained at the hearing that according to the April 20, 2009 denial notice, the petitioner's home health aide services for children was only through March 25, 2009, because he reached the age of 21 on [redacted], 2009.
5. Included in the evidence is a copy of an Internal Focus Review Findings report dated April 15, 2009, stating that the petitioner's home health aide services for children was only through March 25, 2009 because he reached the age of 21 on [redacted], 2009.
6. The respondent's representative explained at the hearing that the petitioner receives benefits from the Agency for Persons with Disabilities Program (APD). Also according to him, the petitioner has a support coordinator that works with him to provide him with the services that he needs.

CONCLUSIONS OF LAW

By agreement between the Agency for Health Care Administration and the Department of Children and Families, the Agency for Health Care Administration has conveyed jurisdiction to the Office of Appeal Hearings to conduct this hearing pursuant to Chapter 120.80 F.S.

The Florida Administrative Code at 59G-4.130 explains home health services. The Home Health Services Coverage and Limitations Handbook states on page 2-10:

Covered Services For Children.

Medicaid reimburses for the following services provided to eligible recipients under age 21 years:

Licensed nurse and home health aide visits;
Private Duty Nursing;
Personal Care;
Occupational, physical and speech language pathology evaluations and treatments; and
Durable medical equipment and supplies.

The Children's Multidisciplinary Assessment Team Statewide Operation Plan states in part:

Eligibility

Medicaid Eligible Children

The CMAT may staff any Medicaid eligible child less than 21 years of age who has a medically complex or medically fragile condition requiring continual medical, nursing, or health supervision and has medical documentation to support the need for long term care services.

The petitioner's home health aide services for children were cancelled, and he was taken off of the Children's Medical Services Network (CMSN) Plan, because he reached the age of 21 years old on 07/20/09. As cited above, coverage for these services

is only for eligible recipients under 21 years old. The petitioner receives benefits from the Agency for Persons with Disabilities Program (APD), and he has a support coordinator that works with him to provide him with the services that he needs. After careful consideration, it is determined that the Agency's action is upheld.

DECISION

This appeal is denied and the Agency's action is affirmed.

NOTICE OF RIGHT TO APPEAL

This decision is final and binding on the part of the Agency. If the petitioner disagrees with this decision, the petitioner may seek a judicial review. To begin the judicial review, the petitioner must file one copy of a "Notice of Appeal" with the Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, FL 32308-5403. The petitioner must also file another copy of the "Notice of Appeal" with the appropriate District Court of Appeal. The Notices must be filed within thirty (30) days of the date stamped on the first page of the final order. The petitioner must either pay the court fees required by law or seek an order of indigency to waive those fees. The Agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 12th day of August, 2009,

in Tallahassee, Florida.

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