

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

FILED
JUL 24 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-03368

PETITIONER,

Vs.

CASE NO.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 06 Pasco
UNIT: AHCA

RESPONDENT.

FINAL ORDER

Pursuant to notice, an administrative hearing was convened by telephone before the undersigned hearing officer on July 14, 2009, at 1:50 p.m. The petitioner was not present. He was represented by his step-mother, _____ and his father _____. Present on behalf of the petitioner was _____, case manager. The respondent was represented by Patricia Cobb, registered nurse specialist and Stephanie Lang, registered nurse specialist. Present as witnesses for the respondent from Keystone Peer Review Organization (KePRO) were Robert Buzzeo, M.D., physician reviewer, and Teresa Ashy, review operations supervisor.

ISSUE

The petitioner is appealing the notices of April 8, 2009, April 9, 2009 and April 22, 2009 for the respondent's action to deny private duty nursing from

7:00 p.m. to 11:00 p.m. (720 hours) for the period of March 24, 2009 through September 19, 2009. The respondent has the burden of proof.

FINDINGS OF FACT

1. The petitioner care is medically complex. The nursing agency requested 4,320 hours of private duty nursing for the period of March 24, 2009 through September 19, 2009. The respondent approved 3,600 hours and denied 720 hours of private duty nursing. The denial was for the hours from 7:00 p.m. to 11:00 p.m. seven days a week. The decision by the respondent was based on the information received from the private duty nursing provider.

2. On July 8, 2009, the petitioner's step-mother sent a two page email to the respondent and the hearing officer. This email notified the agency of corrections to the information provided to the respondent by the nursing agency. The step-mother indicated that they would like the hours of denial to be changed to either 3:00 p.m. to 7:00 p.m. or 3:00 a.m. to 7:00 a.m.

3. At the hearing the respondent indicated that based on the information provided in the email from the step-mother, KePRO was willing to review their decision. The parties arrived at a compromise that was acceptable to the petitioner. The petitioner agreed that the hours of denial would remain the same, 720 hours. However, the four hours of private duty nursing that would be denied for the period of March 24, 2009 through September 19, 2009 would be from 3:00 p.m. to 7:00 p.m.

CONCLUSIONS OF LAW

The rules for home health services are set forth in the Florida Administrative Code at 59G-4.130 and the Home Health Services and Limitations Handbook in Chapter 2. The evidence demonstrates that the matter under appeal has been resolved.

DECISION

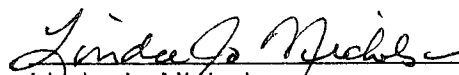
This appeal is granted.

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 24th day of July, 2009,

in Tallahassee, Florida.


Linda Jo Nicholson
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
850-488-1429

Copies Furnished To