

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

FILED
JUL 27 2009
OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-03614

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 10:10 a.m., in Fort Lauderdale, Florida. The petitioner was not present. She was represented by her daughter, . The respondent was represented by Ken Hamblin, program operations administrator. Present from was , president.

ISSUE

At issue is the Agency's May 29, 2009 action of denying the petitioner's request for an additional one hour per day seven days per week of home health aide services. The petitioner has the burden of proof.

FINDINGS OF FACT

1. The petitioner, who lives with her husband, , receives home health aide services.

2. Included in the evidence is a copy of a notice dated May 29, 2009, stating that the request for an additional one hour seven days per week of home health aid services for the petitioner was denied.

3. The May 29, 2009 notice explains the approved hours of home health aide services for the petitioner. The approved hours are: two hours in the mornings four days per week, and one hour three days per week. In addition, _____ will provide a daily home health care visit in the evenings seven days per week. These services will provide care for the petitioner two times per day.

4. Included in the evidence is a copy of a CM/AEC Care Plan Service Log dated April 20, 2009 to June 4, 2009. It explains the contacts that the petitioner had concerning the home health aide services that she receives.

5. Included in the evidence is a copy of an _____ Appeal/Grievance Meeting form dated May 29, 2009. It states that the appeal committee approved an increase of home health aide services for the petitioner of seven hours per week in the evenings. The care plan changed to four days for two hours in the mornings, and one hour three days per week.

6. The _____ appeal committee approved the same amount of home health aide service hours for the petitioner as explained in the May 29, 2009 approval notice. Home health aide service hours were redistributed so that there would be coverage in the evenings.

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. Fla. Admin. Code 59G-1.010 states in part:

(166) "Medically necessary" or "medical necessity" means that the medical or allied care, goods, or services furnished or ordered must:

(a) Meet the following conditions:

1. Be necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
2. Be individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
3. Be consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
4. Be reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available; statewide;
5. Be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

(b) "Medically necessary" or "medical necessity" for inpatient hospital services requires that those services furnished in a hospital on an inpatient basis could not, consistent with the provisions of appropriate medical care, be effectively furnished more economically on an outpatient basis or in an inpatient facility of a different type.

(c) The fact that a provider has prescribed, recommended, or approved medical or allied care, goods, or services does not, in itself, make such care, goods or services medically necessary or a medical necessity or a covered service.

The Florida Administrative Code at 59G-4.130 explains home health services. The Home Health Services Coverage and Limitations Handbook explains on page 2-14 that home health services must be ordered by the attending physician and be medically necessary. The petitioner's request for an additional one hour daily seven days per week of home health aide services was denied.

The petitioner was approved for home health aide services of two hours in the mornings four days per week, and one hour three days per week. Coverage will be for daily home health care visits in the evenings seven days per week. These services will

provide care for the petitioner two times per day. It is determined that this plan is upheld. After careful consideration, it is determined that the action to deny the request for home health aide services for an additional one hour per day seven days per week, is upheld.

DECISION

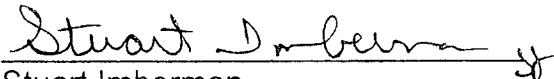
The appeal is denied and the Agency's action is affirmed.

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 27th day of July, 2009,

in Tallahassee, Florida.


Stuart Imberman
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
850-488-1429

Copies Furnished To