

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

FILED

AUG 11 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-4313

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION
CIRCUIT: 11 Dade
UNIT: AHCA
RESPONDENT.

FINAL ORDER TO DISMISS

Pursuant to notice, an administrative hearing was convened before the undersigned-hearing officer on July 29, 2009, at 8:20 a.m., in Miami, Florida. The petitioner was present however she was represented by her mother,

Representing the respondent was Monica Otoriola, program specialist with the Agency for Health Care Administration. Appearing telephonically as witnesses for the respondent were: Dr. Robert A. Buzzeo, physician reviewer and Gary Erickson, RN, nurse reviewer, both with Keystone Peer Review Organization (KēPRO) South. served as translator.

ISSUE

At issue was the respondent's action of June 26, 2009 and July 8, 2009, in denying 256 hours of home health services for the certification period of May 8, 2009 through November 3, 2009.

The petitioner's mother provided testimony clarifying information submitted by the provider which was incorrect. She informed the KēPRO reviewing physician of the correct hours and the reviewer rescinded the denial and approved the 256 hours at issue.

Fla. Admin. Code Rule 65-2.056 Basis of Hearings states as follows:

The Hearing shall include consideration of:

(1) Any Agency action, or failure to act with reasonable promptness, on a claim of Financial Assistance, Social Services, Medical Assistance, or Food Stamp Program Benefits, which includes delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and discontinuance, termination or reduction of such assistance.

(2) Agency's decision regarding eligibility for Financial Assistance, Social Services, Medical Assistance or Food Stamp Program Benefits in both initial and subsequent determination, the amount of Financial or Medical Assistance or a change in payments.

(3) The Hearing Officer must determine whether the department's decision on eligibility or procedural compliance was correct at the time the decision was made. The hearings are de novo hearings, in that, either party may present new or additional evidence not previously considered by the department in making its decision.

Therefore, the appeal is dismissed as moot as the requested service hours have been approved and therefore are no longer at issue. No further action will be taken on this appeal.

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

FINAL ORDER (Cont.)

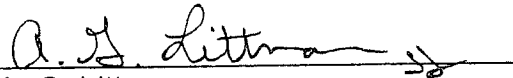
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required by law or seek an order of indigency to waive those fees. The agency has no funds to assist in this review, and any financial obligations incurred will be the petitioner's responsibility.

DONE and ORDERED this 11th day of August, 2009,

in Tallahassee, Florida.



A. G. Littman
Hearing Officer
Building 5, Room 255
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
850-488-1429

Copies Furnished To