

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

FILED
JUL 10 2009
OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

APPEAL NO. 09F-02939

PETITIONER,

Vs.

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 June 19, 2009, at 8:19 a.m. The petitioner was present. The respondent was represented by 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 Melanie Clyatt, review operations supervisor.

ISSUE

The petitioner is appealing the notices of April 15, 16 and 27, 2009 for the respondent's action to deny 2772 hours of private duty nursing for the period of April 14, 2009 through October 10, 2009. The respondent has the burden of proof.

FINDINGS OF FACT

1. The petitioner care is medically complex. The nursing agency requested 4320 hours of private duty nursing for the petitioner for the period of April 14, 2009 through October 10, 2009. This request would be 24 hours a day of private duty nursing. The respondent approved 1,548 hours and denied 2,772 hours of private duty nursing. The decision by the respondent was based on the information received from the private duty nursing provider.

2. At the hearing, the petitioner presented evidence that was not given to the respondent by the provider. The parties arrived at a compromise that was acceptable to the petitioner. The respondent will authorize the following hours:

Monday through Friday:

Skilled nursing from 7:00 a.m. to 3:00 p.m.

Home health aide from 3:00 p.m. to 11:00 p.m.

Skilled nursing form 11:00 p.m. to 7:00 a.m.

Saturday:

Home health aide from 9:00 a.m. to 3:00 p.m.

Skilled nursing form 11:00 p.m. to 7:00 a.m.

Sunday:

Home health aide from 12:00 p.m. to 5:00 p.m.

Skilled nursing form 11:00 p.m. to 7:00 a.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. Since the respondent has agreed to provide benefits and all parties are in agreement, the appeal is granted.

DECISION

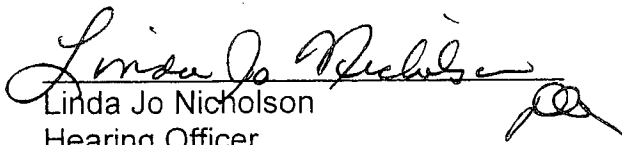
This appeal is granted.

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 10th day of July, 2009,

in Tallahassee, Florida.



Linda Jo Nicholson
Hearing Officer
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Copies Furnished T