

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-03425

PETITIONER,

Vs.

AGENCY FOR HEALTH CARE ADMINISTRATION  
CIRCUIT: 20 Lee  
UNIT: AHCA

RESPONDENT.

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**FINAL ORDER**

Pursuant to notice, an administrative hearing was convened by telephone before the undersigned hearing officer on July 14, 2009, at 9:50 a.m. The petitioner was not present. He was represented by his mother,

Present on behalf of the petitioner was \_\_\_\_\_, director of nursing for

\_\_\_\_\_. The respondent was represented by Pat Brooks, program operations administrator and Karen Smith, 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 2, 2009 and April 23, 2009 for the respondent's action to deny 840 hours of private duty nursing for the

period of April 9, 2009 through October 5, 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 April 4, 2009 through October 5, 2009. The respondent approved 3,480 hours and denied 840 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 respondent presented testimony of a change in rules. The parties arrived at a compromise that was acceptable to the petitioner. The respondent provided written verification that private duty nursing for the certification period April 9, 2009 through October 5, 2009 was approved for 3,915 hours and denied for 405. The respondent will authorize the approved hours as

follows: Monday 24 hours  
Tuesday 23 hours  
Wednesday 24 hours  
Thursday 23 hours  
Friday 23 hours  
Saturday 20 hours  
Sunday 20 hours

### **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

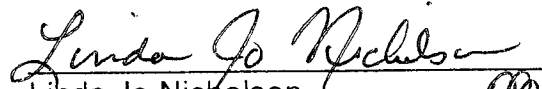
This appeal is granted.

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 27<sup>th</sup> 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

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