

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

FILED

NOV 16 2009

OFFICE OF APPEAL HEARINGS
DEPT. OF CHILDREN & FAMILIES

PETITIONER, APPEAL NO. 09F-05177
Vs.
AGENCY FOR HEALTH CARE
ADMINISTRATION (AHCA)
CIRCUIT: 18 Seminole
UNIT: AHCA
RESPONDENT.

**FINAL ORDER OF DISMISSAL
DUE TO FAVORABLE RESOLUTION**

Pursuant to notice, an administrative hearing was convened before the undersigned at 10:04 a.m. on October 28, 2009 in Orlando, Florida. The petitioner was not present, but was represented by his mother, Lissette Knott, human service program specialist, represented the respondent with testimony by telephone from Dr. Anthony Buzzeo, and Gary Erickson, RN, nurse reviewer, both with KePRO.

ISSUE

At issue was whether reduction in number of hours of home health aide was correct. Burden of proof was on the respondent.

FINDINGS OF FACT

1. The petitioner is a minor who receives Medicaid. He has serious health impairments and requires assistance with activities of daily living.

2. His mother also has serious health problems. She is totally disabled and receives federal disability benefits.

3. The petitioner had been receiving home health aide around the clock, as authorized by KePRO, under contract with the agency. He had been attending school at home.

4. On August 7, 2009, KePRO issued notice that the 4320 hours of personal care that had been received for the six-month eligibility period, were being reduced to 2139 hours. Notice was issued that 2181 hours were denied for the period of July 9, 2009 to January 4, 2010.

5. The petitioner appealed.

6. One reason for the reduction in hours was that the petitioner started attending school out of the home. Another reason for the reduced hours related to his mother's health. It had improved, but as his mother explained, she is not a well person. That is undisputed.

7. During the hearing, the petitioner's mother and KePRO achieved complete agreement as to appropriate number of hours. They agreed that the petitioner requires full time personal care when he is not at school. This meant that only 619 hours of care would be denied for the certification period.

8. This increased authorization plan was not set forth in writing. The petitioner's mother did not withdraw the appeal.

CONCLUSIONS OF LAW

The respondent has essentially corrected the problem and resolved the issue in favor of the petitioner. However, in the absence of a written statement of

such and in the absence of a withdrawal of the appeal, a final order is needed. It is concluded that dismissal in favor of the petitioner is proper. The denial of 2181 hours is hereby reduced to 619 hours for the certification period. During periods of school attendance out of the home, the petitioner does not need a home health aide. This conclusion is favorable to the petitioner. It simply affirms the agreement reached by the parties at the hearing.

DECISION


The appeal is dismissed.

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.

FINAL ORDER (Cont.)
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DONE and ORDERED this 16th day of November, 2009, in
Tallahassee, Florida.



J W Alper
Hearing Officer
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