

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ELLEN NICHOLS,)
)
 Petitioner,)
)
 vs.) Case No. 04-3813
)
 DEPARTMENT OF CHILDREN AND)
 FAMILY SERVICES,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, this cause was heard by Linda M. Rigot, the assigned Administrative Law Judge of the Division of Administrative Hearings, on March 4, 2005, by video teleconferencing with sites in Tampa and Tallahassee, Florida.

APPEARANCES

For Petitioner: Ellen Nichols, pro se
2501 Seaford Circle
Apartment No. 1
Tampa, Florida 33613

For Respondent: Raymond R. Deckert, Esquire
Department of Children and Family Services
9393 North Florida Avenue, Room 902
Tampa, Florida 33612

STATEMENT OF THE ISSUE

The issue presented is whether case management and homemaker services for Petitioner should be terminated.

PRELIMINARY STATEMENT

By correspondence dated August 20, 2004, Respondent Department of Children and Family Services advised Petitioner Ellen Nichols that it was terminating the case management and homemaker services it was providing to her, and Petitioner timely requested an administrative hearing regarding that determination. This cause was thereafter transferred to the Division of Administrative Hearings to conduct the evidentiary proceeding.

Petitioner Ellen Nichols testified on her own behalf. The Department presented the testimony of Joan Cecil, Latonya Snowden, Debra Niles, Judy Rose, and Judy Amison. Additionally, the Department's Exhibits 1-8 were admitted in evidence.

Only the Department filed a proposed recommended order after the conclusion of the final hearing. That document has been considered in the entry of this Recommended Order.

FINDINGS OF FACT

1. In June 2004, the Department determined that Petitioner was eligible for services pursuant to its Community Care for Disabled Adults Program. Pursuant to its contract with the Department, Gulf Coast Jewish Family Services, Inc., d/b/a Gulf Coast Community Care began delivering those services.

2. Petitioner's apartment was dirty and cluttered, and she was in danger of being evicted from her Section 8 federally-subsidized housing. Petitioner began receiving case management and homemaker services, with the stated goal of cleaning and organizing her apartment so that she could avoid eviction.

3. The case management services consisted of determining and managing the appropriate services for Petitioner. The homemaker services consisted of a helper going to Petitioner's apartment once a week for three hours to teach and assist her in keeping her apartment clean and uncluttered.

4. The services rendered to Petitioner were helpful and encouraged her to gradually discard much of her clutter so that it was easier to keep the apartment clean. When Gulf Coast employees came to her apartment, she was involved in sorting and discarding unneeded items and the apartment appeared much neater. Although it was difficult for her, Petitioner was able to get the apartment ready for her Section 8 inspection, primarily by herself.

5. In August 2004, Gulf Coast determined that the stated goal of organizing and cleaning Petitioner's apartment so that she could avoid eviction had been achieved. Both Petitioner's case manager and her homemaker services supervisor visited her apartment and determined that Petitioner was able to keep the apartment up to standards.

6. Based upon the achievement of the stated goal, the Department notified Petitioner that the case management and homemaker services were being terminated.

7. Although Petitioner testified at the final hearing that she had developed a "heart condition" and was being enrolled in a cardiac rehabilitation program, no evidence was offered, either expert or non-expert, that her "heart condition" would prevent her from keeping her apartment clean and uncluttered. Rather, Petitioner admitted that no doctor had told her she should not perform housework.

CONCLUSIONS OF LAW

8. The Division of Administrative Hearings has jurisdiction over the subject matter hereof and the parties hereto. §§ 120.569 and 120.57(1), Fla. Stat.

9. Section 410.604(1), Florida Statutes, authorizes the Department to operate or contract for a community care for disabled adults program, and Section 410.604(2) establishes the need for the Department to prioritize services due to limited funding for the program.

10. The Department's contract with Gulf Coast specifies on page 14 that the parameters of service delivery are detailed, and incorporated by reference, in the Department's CF Operating Procedure No. 140-8. That latter document provides on page 39

in paragraph 6-5 that a client's case must be closed when services are no longer needed due to improvement.

11. Petitioner received services to assist her in cleaning her apartment and disposing of clutter so that she could pass her Section 8 housing inspection. Petitioner's apartment passed inspection. Therefore, the goal of the services was met, and Petitioner no longer needs those services. Although Petitioner desires that the services continue, no evidence was offered that there was a need, not just a desire. The services should, therefore, be terminated.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered finding that Petitioner is no longer eligible for services and terminating the case management and homemaker services provided to her.

DONE AND ENTERED this 29th day of March, 2005, in
Tallahassee, Leon County, Florida.

Linda M. Rigot

LINDA M. RIGOT
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 29th day of March, 2005.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.