

IN THE DISTRICT COURT OF APPEAL

FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JOSEPH HEAD,

Appellant,

v.

CASE NO. 1D04-1897

DEPARTMENT OF CHILDREN
AND FAMILIES,

Appellee.

Opinion filed March 11, 2005.

An appeal from an order of the Department of Children and Families.

Cynthia A. Mikos of Cynthia A. Mikos, P.A., Tampa, for Appellant.

Charles J. Crist, Jr., Attorney General and Charles M. Fahlbusch, Senior Assistant Attorney General, Office of the Attorney General, Ft. Lauderdale, for Appellee.

PER CURIAM.

This is an appeal from a final order of the Department of Children and Family Services reducing nursing care services provided under a medical assistance program.

The Department determined that the appellant was not entitled to twenty-four-hour

residential nursing care, based on a finding that it was not medically necessary, and reduced his nursing care to two hours per day. We conclude that the order is not supported by competent substantial evidence and therefore we reverse with instructions to reinstate twenty-four-hour residential nursing care services. The appellant's pediatrician and the registered nurse who treated him both testified that he was in need of continuous nursing care. This conclusion was supported, as well, by all of the other medical and lay witnesses who had first-hand knowledge of the appellant's medical condition.

Reversed.

ALLEN, VAN NORTWICK and PADOVANO, JJ., CONCUR.