

ORIGINAL

SUPREME COURT FOR THE STATE OF OHIO

Francesca Steinhart)
26191 Brush Avenue)
Euclid, Ohio 44132)

CASE NO. 13-0102

and)

Legacy Home Care, Inc.)
26191 Brush Avenue)
Euclid, Ohio 44113)

Relators,)

v.)

Ohio Department of Job and Family)
Services)
30 East Broad Street, 32nd Floor)
Columbus, Ohio 43215)

and)

Ohio Attorney General)
30 Esat Broad Street, 14th Floor)
Columbus, Ohio 43215)

Respondents)

COMPLAINT FOR AN ORIGINAL WRIT OF MANDAMUS
EMERGENCY ORAL HEARING DEMANDED

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Counsel for Relators

FILED
JAN 17 2013
CLERK OF COURT
SUPREME COURT OF OHIO

JURISDICTION

1. This is an Original Action for Writ of Mandamus, compelling Respondents to comply with their clear legal duty pursuant to the Ohio Administrative Code as outlined below and the common laws of the State of Ohio. This action is brought pursuant to Section 2, Article IV, of the Ohio Constitution for a Writ of Mandamus directed to Respondents.

INTRODUCTION

2. Francesca Steinhart seeks relief in the form of mandamus compelling the Ohio Department of Job and Family Services to withdraw its order issuing a “hold and review process”, and concomitantly, for the Ohio Attorney General to drop its allegations of fraud.

PARTIES

3. Francesca Steinhart resides in the State of Ohio.

4. Legacy Home Care, Inc. is an Ohio corporation engaged in the home nursing and home health care business and receives payment for its services from Medicaid.

5. The Ohio Attorney General, and Ohio Department of Job and Family Services are state government agencies.

FACTUAL ALLEGATIONS

6. Francesca Steinhart manages Legacy Home Care Inc.

7. Legacy Home Care Inc. employs over 30 individuals, including nurse and home health aides.

8. Legacy Home Care Inc. is Francesca Steinhart’s business, livelihood, and sole source of Income.

9. On August 17, 2012, the Ohio Department of Job and Family Services sent Legacy Home Care Inc. a letter, stated it issued an order placing the business under “Hold and Review” pursuant to Ohio Administrative Code 51013-1-27.1.

10. The status of Hold and Review has discontinued Medicaid payments that are due to Relator Legacy Home Care, Inc., which was its major source of income and revenue.

11. The Ohio Department of Job and Family Services can only issue a "Hold and Review Order", when the Ohio Attorney General investigates allegations of fraud.

12. Pursuant to hold and review, all of Legacy Home Care Inc.'s billing records were to be manually reviewed by the Respondents.

13. Pursuant to the correspondence's instruction, Francesca Steinhart oversaw Legacy Home Care, Inc.'s completion of form CMS 1500 in order to facilitate the Department in its review.

14. While under review, Legacy Health Care, Inc. is incapable of collecting any billing, or paying its high level employees.

15. On January 8, 2013, Relator Steinhart spoke with the Ohio Department of Job and Family Services and the department spokesperson indicated Legacy Home Care Inc.'s claim had not been processed for adjudication, yet to that point all parts of the investigation revealed there was no basis to the alleged fraud.

16. During the same conversation, the Ohio Department of Job and Family Services and the department spokesperson explicitly stated nothing in the investigations substantiated the fraud allegations, and moreover, has not provided a reason for the delay in processing Legacy's claim for adjudication.

17. During the same conversation, the Ohio Department of Job and Family Services and the department spokesperson stated it could not withdraw an order for "Hold and Review" without permission from Respondent Ohio Attorney General's office.

18. Since the order mandating "Hold and Review", Relator Steinhart has had to pay amounts of around One Hundred Sixty Thousand Dollars (\$160,000.00) per month to finance Legacy Home Care Inc.'s payroll, and operating expenses and no longer has the financial means to

continue to operate Relator Legacy Home Care, Inc..

19. Relator Legacy Home Care has fully cooperated with all aspects of the review and investigation.

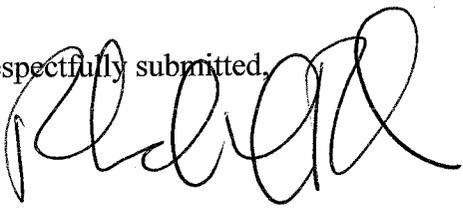
CLAIMS FOR RELIEF

20. Relator Legacy Home Care, Inc. has been under “Hold and Review” since August 14, 2012.

21. Ohio Administrative Code 5101:3-1-27.1 (G) mandates that “no later than one hundred twenty days from the date ODJFS (Ohio Department of Jobs and Family Services) holds a claim for review, ODJFS shall forward the claim for adjudication if the documentation supports the validity of the claim...”.

22. Since August 17, 2012, when Relator Legacy Home Care, Inc. received notice of the Hold and Review, over 150 days have passed without the claim being sent for adjudication. This violates OAC 5101:3-1-27.1(G)’s mandate, that the Department send claims for adjudication within 120 days.

WHEREFORE, Francesca Steinhart, and Legacy Home Care Inc. respectfully request a Writ of Mandamus be issued to order the Ohio Department of Jobs and Family Services to revoke the order placing Legacy Health Care under “Hold and Review”, and for the Ohio Attorney General to cease to fraud allegations, as review of all applicable records has not indicated any validity to such allegations.

Respectfully submitted,


Richard H. Drucker

State of Ohio

Affidavit

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:
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County of Cuyahoga

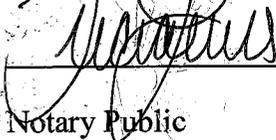
I, Francesca Steinhart, being duly sworn, deposed, and say:

- 1) I am the manager of Legacy Home Care, Inc.
- 2) Since the Department of Jobs and Family Services issued the order mandating "Hold and Review", Legacy Home Care, Inc. has been unable to take in any money, or other income.
- 3) I have been using my personal funds to finance Legacy Home Care, Inc.'s operating expenses for over 4 months since the "Hold and Review Order".
- 4) My personal funds have covered payroll, for the 30 plus employees, which per month amounts to over \$160,000.
- 5) At this time, my personal funds are all but exhausted from financing Legacy's payroll and operating expenses.
- 6) Because of the standing "Hold and Review" order, Legacy will be run out of business within a month, and I will be forced to assume debt.
- 7) The Department of Job and Family Services issued this order almost 6 months ago, and has failed to adjudicate the claim to date.



Francesca Steinhart

SWORN TO AND SUBSCRIBED IN MY PRESENCE, this 11th day of January, 2013.



Notary Public

TRICIA N. LEWIS
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires Sept. 24, 2017