

AFFIDAVIT OF COUNSEL

NOW COMES Kate Downes, Esq., of Shelburne Falls, Massachusetts, and hereby deposes and states that:

1. I am an attorney in good standing, licensed to practice in the Commonwealth of Massachusetts, and have focused on elder law issues for the past 25 years. I have handled hundreds of MassHealth applications during that time period.
2. Until recently, I participated in only a few fair hearings each year (and, in some years, none were necessary). In the past year, however, I have been forced to file fair hearing requests in almost every case, for the same reasons:
 - The worker claimed that documents I submitted (often for the second or third time – my record is five submissions of the same documents) had not been received;
 - An erroneous notice was issued, which the worker acknowledged was inaccurate, but it does not get corrected prior to the 30-day deadline for filing an appeal;
 - Notices arrive after the deadline for responding (typically, at a minimum, there is at least a 7-day delay between the date on the notice and the postmark, impacting the time the applicant has to gather requested information); and/or
 - The denial is so vague, I have no way to respond (ex: “excess assets” are listed under “other”)
3. Filing an appeal is often the only way to get the attention of a MassHealth worker, although many are too busy to attempt resolution until just before the scheduled hearing (often, months after the denial notice, causing tremendous stress for the applicant and family)
4. The situation is particularly difficult in community MassHealth cases, because MassHealth refuses to disclose the name and contact information for the assigned worker. It means dealing with whomever answers the toll-free number and struggling to explain the case, without success. I had a fair hearing last month on a community MassHealth case and, because MassHealth would not provide any information about the worker involved, I was not able to take any steps toward resolution in advance of the hearing. Even many long-term-care notices omit the worker’s contact information.
5. I am confident that far fewer matters would result in fair hearing requests if workers were assigned fewer cases, documents made it to the assigned worker, and every notice contained the name and direct telephone number of the assigned worker. The inefficiencies are outrageous.
6. I cannot imagine what happens to applicants who file without counsel. The process is incredibly frustrating for me, so it must be overwhelming for a layperson.

7. The lack of inconsistency between offices and workers makes it extremely difficult to advise clients. My colleagues and I compare notes and find that one office/worker will handle an issue one way, while other offices/workers handle it completely differently. I tell clients that "The only thing that is predictable about MassHealth is that it is unpredictable."

8. In my 25 years of handling MassHealth cases, I have never seen such chaos, lack of accountability, failed communications, and inefficiencies.

SIGNED under the pains and penalties of perjury on this 14th day of May, 2018.



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