

## AFFIDAVIT OF COUNSEL

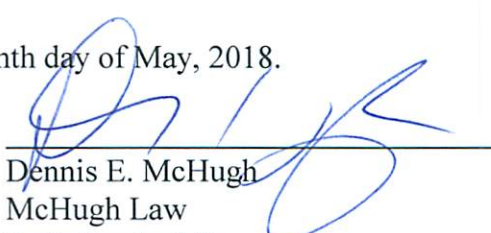
Now comes, Dennis E. McHugh, of Chelmsford, Massachusetts, and hereby deposes and states that:

1. I am attorney in good standing, licensed to practice in the Commonwealth of Massachusetts.
2. I assist elders filing MassHealth long term care applications.
3. After filing the application, the caseworkers consistently requests information that has already been submitted with the initial application.
4. Sometimes, when additional information is requested and supplied within the stated deadline, we are informed the application was denied before the caseworker has reviewed the supplied information.
5. Caseworkers repeatedly inform us that the notices are automatically generated.
6. Our office recently represented a husband and wife applying for MassHealth benefits who had irrevocable trusts drawn by another attorney. Their applications were denied and they expended tens of thousands of dollars bringing their case to Superior Court. They were ultimately approved for MassHealth benefits.
8. While their cases were pending, their son paid all prescription costs throughout the process.
9. At an appeal hearing on July 21, 2017, the hearing officer requested all paid prescription bills to the "Ongoing Unit" of MassHealth for reimbursement;
10. On August 2, 2017, the bills were mailed to the "Ongoing Unit." The bills showed that they were paid.
11. On September 6, 2017, we sent an email to the MassHealth LTSS Service Center to follow up on the prescription bills submitted. We received an automatic reply saying that we will be contacted within one business day. We were not contacted.
12. On September 19, 2017, we sent a fax to the MassHealth Customer Service Center requesting assistance with the status of the prescription bills submitted for reimbursement. We did not receive a reply.
13. On October 27, 2017, an appeal hearing was held to dispute the PPA based on the fact that prescriptions had been paid during the appeal time period and the husband was still living at home when his wife was admitted to the nursing home.
14. The hearing was left open until November 20, 2017 so that counsel could submit probate

documents for the wife, who passed away during the appeal process.

15. On October 27, 2017, the probate documents were emailed to the hearing officer, as requested on the Hearing Open notice.
16. On November 17, 2017, the caseworker sent an email requesting proof of payment of the prescription bills. At this point, the bills had been submitted to MassHealth several times with no request for additional proof of payment. The provider had indicated on the bills that they were paid.
17. On November 21, 2017, additional proof of payment was delivered by FedEx to the caseworker. Because the closing date of November 20 was a Sunday, the next day for delivery was November 21.
18. On December 7, 2017, we sent another letter to the "Ongoing Unit" for a status of payment.
19. On March 1, 2018, the caseworker informed us by email that the reimbursement was "being processed."
20. In a decision dated March 28, 2018, our appeal for the hearing on October 27, 2017 was denied because "the appellant was given until November 20, 2017 to submit copy of estate paperwork." "Appellant declined to respond." The requested paperwork had been submitted to the hearing officer the same day as the hearing, October 27, 2017.
21. On May 8, 2018, we received an email from the caseworker, followed by a phone call. She called to say that our client would not be reimbursed for the prescriptions paid because proof of payment was not submitted by November 20, 2017. When questioned why she was now contacting us regarding a notice dated March 28, 2018, she said that the notices do not go directly to the caseworkers. They go to a central unit and, unless someone physically gives the caseworker the notice, they never see it.
22. Upon information and belief, one department is not aware of what another department is doing and the customer support system is non-existent.
23. Upon information and belief, applicants filing without the assistance of counsel would not be able to navigate this process.

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



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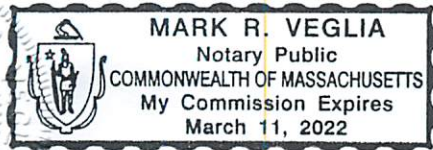
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BBO #335360

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX,SS

May 11, 2018

Then personally appeared the above named Dennis E. McHugh and, having been duly sworn, do hereby state that the foregoing instrument to be the truth and his free act and deed, except as to those statements which are upon information and belief, and, as to those, that he believes them to be true, before me,



Notary Public *Mark Veglia*  
My Commission expires: *3/11/2022*