

AFFIDAVIT OF FRANCIS X. SMALL, ESQ.

I, FRANCIS X. SMALL., ESQ, of Milford, Massachusetts do under oath depose and say that:

1. I am an attorney in good standing, licensed to practice in the Commonwealth of Massachusetts, with a principal place of business at 24 Asylum Street, Milford, Massachusetts 01757 in excess of 25 years.
2. A significant portion of my law practice involves assisting elders and their families with MassHealth Long-Term-Care applications. Over the last several years I have processed and advised clients on over 100 MassHealth applications. Approximately 75% of my practice involves advising on Long-Term-Care planning and MassHealth applications. I have attended numerous administrative Fair Hearings during my tenure of practicing in elder law.
3. Once a MassHealth Long-Term-Care application is filed, typically the applicant waits to receive a notice of approval or denial. If the applicant receives a notice of denial for excess countable assets, the notice will simply state that the application was denied, will reference in general terms a regulation which MassHealth deems applicable and then will state the amount of the applicant's assets which exceed the standard allowance of \$2,000.00, and information regarding the right to appeal the decision. There is no other information disclosing how that number was calculated, how the applicant violated the referenced regulation or how MassHealth came to its determination; in other words, the MassHealth denial notice does not provide a clear statement of the specific reasons for the denial of benefits.
4. On several occasions, both a member of the applicant's family and I would receive a notice for failure to submit verification, even though I have documentation that the verification had been submitted in a timely manner. The notice fails to identify what verifications the caseworker believes are outstanding. These notices cause an extremely high level of anxiety for the family.
5. On other occasions, I have received notices of denial necessitating a call to the caseworker, only to find that the caseworker has not yet been able process the submitted verification either because the caseworker was on vacation or was out sick for a period of time. In those circumstances the caseworker informed me that the denial notice was automatically generated
6. On most occasions, the name of the intake worker and the location of the MassHealth Enrollment Center is identified on the Request for Information. When a denial notice is issued it often has a different MassHealth Enrollment Center identified and the name of the caseworker is not included on the notice. Attached are the most recent such notices I have received: Exhibit A being the Request for Information and Exhibit B being the Denial Notice for failure to submit verifications. The other identifies the Springfield MEC as the office processing the application with the name of the intake worker along

with her phone and fax number. The second notice has a return address of the Taunton MEC along with general phone and fax numbers that do not connect to the intake worker processing the application. This makes it extremely difficult to process the application in an efficient manner.

8. Often, the denial notice necessitates the filing for a Fair Hearing to preserve the original application date while waiting for information as to what verifications the caseworker claims to be missing. Many times, with 48 hours prior to the Fair Hearing, the matter is resolved and the Fair Hearing does not need to take place. This is a waste of time for all parties involved and a waste of money for the applicant as I have frequently needed to prepare for a Fair Hearing that does not take place and that would not have been needed at all had the denial notice specifically stated what verifications were supposedly missing.

SIGNED under the pains and penalties of perjury on this 9th day of May, 2018.

Francis X. Small

FRANCIS X. SMALL
BBO # 562069
Heaney & Small, LLP
24 Asylum Street
Milford, MA 01757
(508) 473-2777

THE COMMONWEALTH OF MASSACHUSETTS

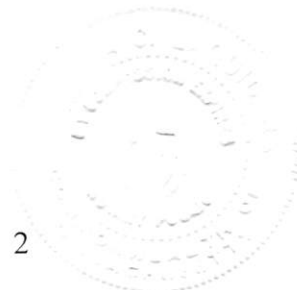
Worcester, ss.

May 9, 2018

On this 9th day of May 2018, before me, the undersigned notary public, personally appeared **Francis X. Small**, proved to me through satisfactory evidence of identification, which was a Massachusetts' driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Roberta C. Laquidara

Notary Public: Roberta C. Laquidara
My Commission Expires: September 16, 2022



Roberta C. Laquidara
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 16, 2022



EXHIBIT A

SPRINGFIELD OFFICE
88 INDUSTRY AVE, SUITE D
SPRINGFIELD MA 01104-3259

Commonwealth of Massachusetts
Executive Office of Health
and Human Services
Office of Medicaid
www.mass.gov/masshealth

Worker Name: Katie Kalinko
Tel: (413) 785-4118
Fax: (413) 785-4107

Reference :



526/VCT1-HCR *002693*
HEANEY AND SMALL, LLP
c/o FRANCIS X SMALL
24 ASYLUM ST
MILFORD MA 01757

Attn: HEANEY AND SMALL, LLP Re: Notice sent to

REQUEST FOR INFORMATION

IMPORTANT! PLEASE RETURN THIS PAGE WITH ALL REQUESTED DOCUMENTS.

Date: 03/20/2018

Notice:

SSN:

Dear

MassHealth has received your application or review form but we need more information before we can make a final decision about your eligibility for health-care benefits. The information we need is listed below. A list of acceptable documents that you may send us to verify this information appears further down on this notice.

You must send us all of the information we need by 04/19/2018. If you do not send us this information by this date:

- * your health-care benefits may be denied if you are applying; or
- * your health-care benefits may change, or end if you are currently getting benefits.

If you believe you have already submitted all requested verifications or if you have any questions, call the phone number at the top of this notice.

continued...

EXHIBIT B

Commonwealth of Massachusetts
Executive Office of Health
and Human Services
Office of Medicaid
www.mass.gov/masshealth

TAUNTON OFFICE
21 SPRING ST, SUITE 4
TAUNTON MA 02780-3457

Tel: (800) 242-1340
TTY: (888) 665-9997
Fax: (508) 828-4634

Reference :



576/D *000603*
HEANEY AND SMALL, LLP
c/o FRANCIS X SMALL
24 ASYLUM ST
MILFORD MA 01757

Attn: HEANEY AND SMALL, LLP Re: Notice sent to

Date: 04/27/2018

Notice:

SSN:

Dear

Important! This health-care benefits notice tells you the decisions we have made about certain programs that you may be eligible for. Please read the whole notice to find out about your health-care benefits.

MassHealth Long-Term-Care Services in a Nursing Facility

MassHealth has reviewed your application for MassHealth long-term-care services which you filed on 03/05/2018. You are not eligible for MassHealth long-term-care services for the following reasons:

Reason and Manual Citation

You did not give MassHealth the information it needs to decide your eligibility within the required time frame. 130 CMR 515.008

If your application for MassHealth was denied because you did not give us the information or proof we needed to decide if you are eligible for MassHealth, you can either:

continued...