

AFFIDAVIT OF WILLIAM STEPHAN, CFO

NOW COMES Mr. William Stephan, CFO of Next Step Healthcare, LLC and hereby

deposes and states that:

1. I am the CFO of Next Step Healthcare, LLC ("Next Step), with a principal place of business at 75 Second Street, Needham, MA. Next Step operates 28 long term care and assisted living facilities throughout Massachusetts, New Hampshire and Maine, providing care to thousands of patients on a daily basis. Prior to co-founding Next Step in 2007, I had served as Chief Financial Officer of Harborside Healthcare since 1994. Prior to joining Harborside, I was a senior manager in the healthcare practice of Coopers and Lybrand. My clients at Coopers encompassed the full spectrum of the healthcare industry, from long-term care facilities and continuing care retirement centers to physician practices and acute-care hospitals. I hold an AB degree from Hamilton College and an MBA from Cornell University, and have been a certified public accountant.
2. Part of my role as CFO of Next Step includes overseeing our long term care and assisted living facilities, including overseeing financial issues and payor source issues that arise in connection with long term care MassHealth applications and denials. In my career I have been involved with financial issues that arise from Residents' MassHealth applications and denials. On many occasions, our residents and their responsible parties have been required to file for unnecessary Appeals, or have failed to file Appeals timely, resulting in a loss of otherwise available benefits.
3. My understanding of the process, is that once a MassHealth long term care application is filed, typically the applicant waits to receive his/her notice of approval or denial. If he/she 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. As a result of this lack of any clear statement of the specific reasons for the action, the Resident or their responsible party is forced to file an appeal and attempt to determine the specific reasons for the MassHealth denial.
5. Despite submitting multiple requests for such clarity, it is rare that one actually receives additional information giving the Resident a clear statement of the reasons for the denial before the fair hearing, and this lack of information adversely impacts any ability to prepare for the hearing.

6. The common pattern and practice of MassHealth is to decline or refuse to disclose additional information, which forces appellants to go to an appeal hearing to learn for the first time why the application was denied and how the amount of disqualifying excess assets was calculated.

7. At the hearing it is common practice and procedure for the MassHealth representative to deliver a legal memorandum, usually written by the Legal Department of MassHealth, to the appellant who sees it for the first time. The memo is usually delivered to the worker prior to the date of the hearing but the worker is instructed not to put the memorandum in the appellant's file or not to make it available to the appellant or appellant's counsel prior to the start of the appeal hearing. As a result, the applicant has absolutely no ability to prepare and present his/her challenge to the denial of the application before the hearing officer.

8. Although the hearing officer will often leave the record open for the appellant to file a responsive brief, this pattern and practice leads to additional delays and gives MassHealth an unfair advantage during the presentation before the hearing officer at the time scheduled for the fair hearing.

9. This situation is even more egregious for individuals who proceed without counsel as they are unlikely to know enough regarding MassHealth procedures to request that the hearing officer leave the record open in order to have the opportunity to respond to the memorandum on the record after reviewing its contents.

10. This pattern and practice is particularly problematic when dealing with more complicated matters such as trusts. Often the appellant is forced to go to the hearing with absolutely no understanding of what trust provision MassHealth has deemed to violate Medicaid law or regulations and rendered the trust assets to be deemed countable.

11. Nursing home residents are often concerned with securing MassHealth, to ensure that they can continue to reside in the nursing home, and that the nursing home will receive payment for providing their care. The residents are concerned about MassHealth's delays, as their time is often limited. This pattern and practice of failing to give a clear statement of the specific reasons for the denial in the notice, of engaging in information withholding, of forcing a hearing to proceed for which the appellant cannot adequately prepare, not only violates their due process rights but also adds additional stress at a time when appellants are vulnerable.

12. In my experience, Next Step's attorneys and I have also encountered situations wherein a Resident's application was denied on a legal theory that had already been discredited in prior hearing decisions or even court decisions, and in all of such cases the memorandum failed to disclose the existence of such contrary authorities.

13. My attorneys have also told me that they had similar experiences as I have described above. Additionally that their subpoena requests to the hearing officer are routinely denied; that MassHealth applicants' case files routinely do not contain the reasons for the denial, especially on cases involving trusts and other complicated countable assets; that MassHealth workers often cite attorney-client privilege as their reason for not providing the reasons for the denial before

the scheduled fair hearing; and that MassHealth denials are automatically computer-generated if the MassHealth worker does not timely complete work on the case file.

SIGNED under the pains and penalties of perjury on this 23rd day of May, 2018.

Respectfully submitted,

Date: 5/23/18

A handwritten signature in blue ink that reads "William A. Stephan". The signature is written in a cursive style with a large initial "W".

William Stephan, CFO
Next Step Healthcare, LLC