

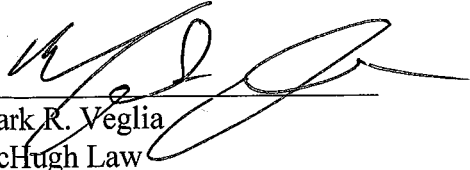
AFFIDAVIT OF COUNSEL

Now comes Mark R. Veglia, of Chelmsford, Massachusetts, and hereby deposes and states that:

1. I am an attorney in good standing, licensed to practice in the Commonwealth of Massachusetts.
2. I assist elders in filing MassHealth long term care applications, and represent clients before the MassHealth Board of Appeals.
3. After filing said long term care applications, MassHealth caseworkers routinely request information that has already been submitted with the application.
4. MassHealth often denies applications without sufficient explanation as to why, which impedes our ability to adequately prepare for appeal.
5. Our office recently represented a woman applying for MassHealth long term care coverage, whose home was held in an irrevocable trust which was established by our office more than five years prior to the application.
6. Initially, her application was denied, not because of the Irrevocable Trust, but because the representative included a bank account in her asset calculation, even though said account was spent-down by the purchase of MassHealth qualified annuities. This information was submitted to MassHealth with the initial application.
7. The MassHealth representative did not seem to understand that the account was not countable, and twice more requested the bank account statements and annuity information that had already been submitted.
8. Prior to the appeal hearing, which occurred on January 5, 2018, I spent significant time researching and drafting an affidavit addressing the issue of why said bank account should not be included as an asset.
9. On January 5, 2018, at the hearing, the MassHealth representative informed both the hearing officer, Christopher Jones, and I that the said bank account issue was resolved, and that "legal" has decided instead to deny the application because of the irrevocable trust, which was an issue I was unprepared to argue at that hearing.
10. MassHealth's re-calculation of the applicant's assets was presented to me and to the hearing officer for the first time at the fair hearing, and consisted of hand-scribbled notes on a copy of the original denial letter.
11. The MassHealth representative also presented me with a memorandum from MassHealth's legal department in support of the denial.

12. When asked by the Hearing Officer whether MassHealth bothered to inform my office of this change, or submit the memorandum to us before the fair hearing, the representative admitted MassHealth did not.
13. Upon review of the memorandum prepared by MassHealth's legal department, it appeared that the memorandum contained boiler-plate language borrowed from other memoranda that were not applicable to the irrevocable trust in question. The memorandum also made outrageous mis-statements of fact and law to justify the denial. Further, the memorandum contained arguments that have repeatedly been refuted by the Massachusetts courts.
14. I drafted a lengthy and detailed response memorandum, which addressed each argument made in MassHealth's memorandum in turn. Many hours were spent researching and refuting the claims made in MassHealth's memorandum.
15. I submitted my response memorandum on January 31, 2018 to both the MassHealth Representative and the Hearing Officer. MassHealth was granted two weeks to respond.
16. About two weeks after submitting my response memorandum, the MassHealth Representative contacted me to inform me that MassHealth would rescind its denial.
17. Upon information and belief, the tactics used by MassHealth with regard to long term care applications are intended to make the application process too onerous and costly for elders seeking coverage, even with assistance of counsel.
18. Upon information and belief, the tactics used by MassHealth with regard to long term care applications are intended to intimidate unrepresented elders, and dissuade them from pursuing needed coverage.
19. Upon information and belief, applicants filing without assistance of counsel would not be able to navigate the application process, and would be discouraged and intimidated into giving up on acquiring coverage before the completion of the application process, even when they have a right to the benefits.

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



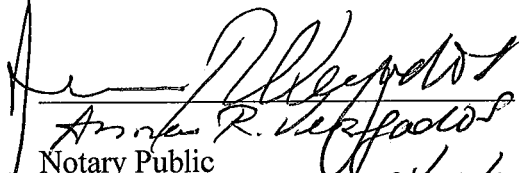
Mark R. Veglia
McHugh Law
2 Chelmsford St.
Chelmsford, MA 01824
BBO #689845

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX,SS

May 14, 2018

Then personally appeared the above named Mark R. Veglia 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,


Anna R. Vergados
Notary Public
My Commission expires: 01/08/2021

Y:\McHughLaw Sharedocs\CLIENTS\Hamel, Maurice\MassHealth\2018 0510 MRV - Hamel - Affidavit of Counsel for B Berreira.wpd

