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& KYRIAKIDIS ^{PC}

Law for Life

September 12, 2014

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Kim M. Larkin, Esq., Director
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th Floor
Quincy, MA 02171

Re: [REDACTED] v. Office of Medicaid
Appeal No. 1409508, September 18, 2014 Hearing
Motion for Release of Legal Memorandum

Dear Attorney Larkin:

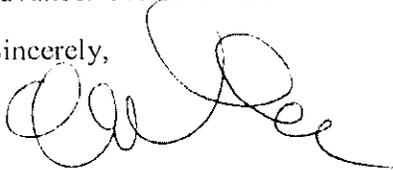
I represent [REDACTED], the MassHealth appellant's Personal Representative. I am requesting that either the hearing officer assigned to this case or yourself release any legal memoranda related to the denial of this case, so I may adequately prepare and draft my fair hearing memorandum.

The requirement to provide this Legal Memorandum at the hearing, which has always been my experience, is frustrating as well as unproductive for both the hearing officer and appellant since these issues could all be addressed in advance allowing for a full and complete presentation of all the facts and applicable law prior to the hearing date. There is no need to keep the record open and further engage in costly and unproductive litigation if this Legal Memorandum, which is the basis for the case worker, is provided beforehand. Therefore, the appellant requests that the hearing officer exercise the hearing officer's discretion under 130 C.M.R. 610.065(A)(4) wherein the hearing officer has the duty "to ensure that all parties have a full opportunity to present their claims orally or in writing and to secure witnesses and evidence to establish their claims".

It is unreasonable for the Office of Medicaid to deny benefits and not offer an explanation until the hearing date. It violates the basic notions of due process to not give notice of the denial reason and therefore, the appellant cannot adequately prepare for a fair hearing.

We believe the appeal scheduled for September 18, 2014 will be significantly more effective and productive if the Legal Memorandum was made available to us in advance. Please advise whether this is possible. Thank you.

Sincerely,



Alex L. Moschella, Esq.

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