

STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF COUNSEL**

---

State of Wisconsin            )  
  ss.  
County of Dane                )

I, Diane M. Welsh, being first duly sworn on oath, depose and state as follows:

1. I am an adult resident of the State of Wisconsin, currently residing in Dane County.
2. I am an attorney practicing with Cullen Weston Pines & Bach LLP and I represent the Plaintiffs in the above-captioned case.
3. My law practice focuses primarily on health law and government law.
4. I am familiar with Medicaid program, including Medicaid statutes, administrative rules, policies, and procedures.
5. True and correct copies of the Wisconsin Administrative Code, chapters 101, 105, 106, 107 and 108 are attached to this Affidavit as Exhibits 1 through 5.
6. I have represented several Medicaid-certified nurses in independent practice who are members of members of Plaintiff Professional Homecare Providers, Inc. ("PHP) related to audits by the Wisconsin Department of Health Services

("Department"), Office of the Inspector General ("OIG"), OIG recoupment efforts, or both.

7. I have also represented several other Medicaid-certified providers related to audits by the OIG, OIG recoupment efforts, or both.
8. OIG auditors may audit any provider who has billed Medicaid within the past five years.
9. Attached as Exhibit 6 is a true and correct copy of Defendant's Partial Response to Plaintiffs' First Set of Discovery Requests.
10. Attached as Exhibit 7 is a true and correct copies of the Medicaid Provider Agreements which have been in effect since 2012.
11. Attached as Exhibit 8 is a true and correct copy of Topic # 66 of the Online Medicaid Provider Handbook.
12. Attached as Exhibit 9 is a true and correct copy of the brief filed by the Department in Division of Hearings and Appeals Case No. ML-15-0234, in which OIG seeks to recover Medicaid funds paid to a PHP member merely because she did not counter-sign the Prior Authorization/Care Plan Attachment, despite the facts that (1) she was not the nurse responsible for completing and submitting the form; (2) there is no statute or administrative code provision which requires signature; (3) the Online Handbook contains conflicting provisions about whether or not a case-sharing nurse must sign the form; and notably, (4) the auditor testified that that the documentation (e.g., nurse visit reports, medication administration record) demonstrated that the nurse provided care consistent with the approved Plan of Care.
13. In Case No. ML-15-0234, the Department argues, *inter alia*:  
Where a provider fails to maintain compliance with the certification requirements or fails to maintain both medical and financial records as directed by the Department and fails to comply with program policies, reimbursement for services is not available.

...

A Medicaid Provider may only be reimbursed for covered services if she meets all of the program requirements in the law, administrative rules, and applicable Medicaid Handbook provisions.

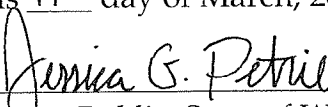
Ex. 9, pp. 9-10.

14. Attached as Exhibit 10 is a true and correct copy of the final decision issued by the Department in Division of Hearings and Appeals Case No. ML-13-0200, in which the Department prevailed in its attempt to recover payments made to the Licensed Practical Nurse because she did not countersign the plans of care and failed to maintain documentation about her own nursing supervision, despite the fact that (1) neither type of documentation calls into question whether or not the nursing care was provided; and (2) neither type of documentation is required by statute or regulation. The administrative decision states, in relevant part: "I note that, even if the incomplete documentation appears relatively easy to correct, where the documentation is not complete the respondent may recovery payments. *Walker Transportation*, DHA Case No. ML-04-0360." Ex. 10, p. 2.

Dated this 17<sup>th</sup> day of March, 2016.

  
Diane M. Welsh

Subscribed and sworn to before me  
this 17 day of March, 2016.

  
Notary Public, State of Wisconsin  
My Commission Expires: 07/13/2019

STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF KATHLEEN PAPA**

---

State of Wisconsin            )  
  :ss.  
County of Waukesha         )

I, Kathleen Papa, being first duly sworn on oath, depose and state as follows:

1. I am a Medicaid-certified nurse in independent practice.
2. I am the past president of Professional Homecare Providers ("PHP"), a non-profit professional organization for Wisconsin nurses in independent practice. I continue to serve on the PHP's Board of Directors as past president.
3. Like other PHP members, I am certified by Wisconsin Medicaid to provide home-based nursing care to children and adults with complex health needs.

4. Based on my 25 years of professional experience in this field, I believe that without the private-duty nursing services provided by PHP members or other independent nurses, many of these children and adults would be unable to remain in their own homes and would require institutionalization.

5. Many of PHP's members, like other independent nurses, exclusively provide services to Medicaid patients; therefore, reimbursement from Medicaid constitutes their entire income.

6. PHP provides informational training and educational services to nurses in independent practice in the form of meetings, conferences, and other training opportunities "to promote quality nursing care and adherence to professional standards and state regulations."

7. Many of the PHP members function as small, independently-owned businesses, employing 25 or fewer full-time employees.

8. Many PHP members have been the subject of OIG audits.

9. During audits of PHP members, I have observed that OIG has sought to recover Medicaid funds based on a finding of alleged minor noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy.

10. I participated as a witness in an administrative hearing where OIG demanded more than \$100,000 from a nurse for care that OIG did not dispute was provided to a Medicaid patient after OIG authorized the services based on allegedly

imperfect documentation.

11. Based on the audits of PHP members, I have seen instances where OIG auditors have sought to recoup payments from nurses due to a failure to submit the claims to the Medicaid enrollee's employer-based health plan, even where it has previously been established that the employer-based health plan would not cover the service, OIG has authorized the care, and Medicaid has paid the claims.

12. Based on the audits of PHP members, I have observed that OIG sought to recoup funds from nurses for services actually provided because the nurse provided additional care, above and beyond what was on the Place of Care.

13. I have observed OIG seek to recoup nurses' entire earnings for shifts of work because a physician did not timely sign and return a written order to the nurse, after giving the nurse a verbal order to administer necessary healthcare to a patient.

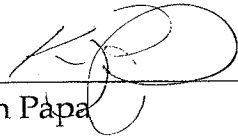
14. PHP members undergoing audits have had to invest significant time and resources including attorneys' fees, to rebut OIG's findings and recoupment attempts. This has imposed significant financial burdens on Medicaid providers, such as Plaintiff PHP's members.

15. OIG's efforts to recoup funds have caused providers to declare bankruptcy, refrain from providing Medicaid services in the future, or both.

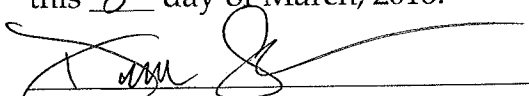
16. I, like other independent nurses, am hesitant to provide independent nursing care to Medicaid enrollees because I understand that OIG might come back years later and demand recoupment of days, weeks, months, or even years of income for services I

actually provided to patients.

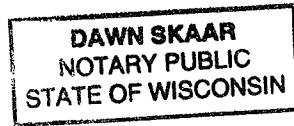
Dated this 8 day of March, 2016.

  
\_\_\_\_\_  
Kathleen Papa

Subscribed and sworn to before me  
this 8<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin

My Commission Expires: 06/18/2019



STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF SHANDA M. HUBERTUS**

---

State of Wisconsin            )  
  ss.  
County of Shawano            )

I, Shanda M. Hubertus, being first duly sworn on oath, depose and state as follows:

1. I am a Medicaid-certified nurse in independent practice.
2. I am the president of Professional Homecare Providers ("PHP"), a non-profit professional organization for Wisconsin nurses in independent practice.
3. Like other PHP members, I am certified by Wisconsin Medicaid to provide home-based nursing care to children and adults with complex health needs.
4. Based on my 13 years of professional experience in this field, I believe that without the private-duty nursing services provided by PHP members or other independent nurses, many of these children and adults would be unable to



remain in their own homes and would require institutionalization.

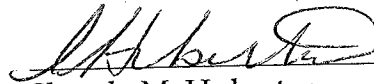
5. Many of PHP's members, like other independent nurses, exclusively provide services to Medicaid patients; therefore, reimbursement from Medicaid constitutes their entire income.
6. PHP provides informational training and educational services to nurses in independent practice in the form of meetings, conferences, and other training opportunities "to promote quality nursing care and adherence to professional standards and state regulations." We provide this training because the trainings provided by Wisconsin Medicaid on Medicaid billing and record keeping are very generic. We have requested that Wisconsin Medicaid provider representatives join us for webinar trainings focused on nurses in independent practice. Wisconsin Medicaid has denied our requests.
7. I believe that all, or virtually all, of the PHP members function as small, independently-owned businesses, employing 25 or fewer full-time employees.
8. Many PHP members have been the subject of audits by the Office of the Inspector General of DHS ("OIG").
9. During audits of PHP members, I have observed that OIG has sought to recover Medicaid funds based on a finding of alleged minor noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy.
10. Based on the audits of PHP members, I have seen instances where OIG auditors

have sought to recoup payments from nurses due to a failure to submit the claims to the Medicaid enrollee's employer-based health plan, even where it has previously been established that the employer-based health plan would not cover the service, OIG has authorized the care, and Medicaid has paid the claims.


11. Based on the audits of PHP members, I have observed that OIG sought to recoup funds from nurses for services actually provided because the nurse provided additional care, above and beyond what was on the Plan of Care.
12. I have observed OIG seek to recoup nurses' entire earnings for shifts of work because a physician did not timely sign and return a written order to the nurse, after giving the nurse a verbal order to administer necessary healthcare to a patient.
13. In some cases, OIG has sought to recoup the entire income an independent nurse received for months of providing pre-approved services to needy Medicaid patients.
14. PHP members undergoing audits have had to invest significant time and resources, including attorneys' fees, to rebut OIG's findings and recoupment attempts. This has imposed significant financial burdens on Plaintiff PHP's members.
15. OIG's efforts to recoup funds have caused PHP members to worry about being forced into bankruptcy, refrain from providing Medicaid services in the future, or both.

16. I, like other independent nurses, am hesitant to provide independent nursing care to Medicaid enrollees because I understand that OIG might come back years later and demand recoupment of days, weeks, months, or even years of income for services I actually provided to patients.

Dated this 11 day of March, 2016.

  
Shanda M. Hubertus

Subscribed and sworn to before me  
this 11<sup>th</sup> day of March, 2016.

  
Notary Public, State of Wisconsin  
My Commission Expires: 1-21-2018



STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF HEIDI UNKE**

---

State of Wisconsin            )  
  :ss.  
County of Dane                )

I, Heidi Unke, being first duly sworn on oath, depose and state as follows:

1. I am a Professional Homecare Provider ("PHP") member and a Medicaid-certified nurse in independent practice.

2. I provide home-based nursing care to an adult with complex health needs and bill Medicaid for these services.

3. Without the private-duty nursing services provided by me and other independent nurses, the adult for whom I care would be unable to remain in his own home and would require institutionalization.

4. I have participated in PHP's informational training and education services to nurses in independent practice.

5. I was the subject of an OIG audit conducted in 2013-2014, for the period June 1, 2012 through December 31, 2012.

6. In March 2015 OIG sought to recover Medicaid funds based on its findings of alleged noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy, specifically for non-correlation between the medication record, the record of treatment and the nurse's clinical notes.

7. OIG demanded to recoup approximately \$58,000 from me for care that OIG did not dispute was provided to a Medicaid patient, following OIG's prior authorization for the services.

8. The funds DHS sought to recoup from me constituted the entire income I received for months of providing pre-approved services to medically needy Medicaid patients.

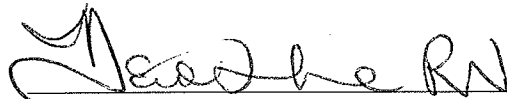
9. In undergoing this audit, I have had to invest significant time and resources including attorneys' fees, to rebut OIG's findings and recoupment attempt. This has imposed significant financial and emotional burdens on me.

10. Because of the OIG audit, I started working at a hospital and currently provide independent nursing care services to a Medicaid enrollee only one day a week.

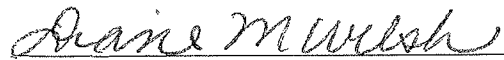
11. I have significantly reduced the amount of independent nursing care I

provide to Medicaid enrollees because I understand that OIG might come back years later and demand recoupment of days, weeks, months, or even years of income for services I actually provided to patients.

Dated this 11<sup>th</sup> day of March, 2016.

  
Heidi Unke

Subscribed and sworn to before me  
this 11<sup>th</sup> day of March, 2016.

  
Notary Public, State of Wisconsin  
My Commission Expires: is permanent

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403

Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF MICHELE STEGER**

---

State of Wisconsin            )  
  :SS.  
County of Dane                )

I, Michele Steger, being first duly sworn on oath, depose and state as follows:

1. I am a Professional Homecare Provider ("PHP") member and a Medicaid-certified nurse in independent practice.

2. I provide home-based nursing care to an adult with complex health needs and bill Medicaid for these services.

3. Without the private-duty nursing services provided by me and other independent nurses, the adult for whom I care would be unable to remain in his own home and would require institutionalization.

4. I was the subject of an OIG audit conducted in 2013-2014, for the period June

1, 2012 through December 31, 2012.

5. In March 2015, OIG demanded to recoup \$14,555.72 from me for care that OIG did not dispute was provided to a Medicaid patient, following OIG's prior authorization for the services.

6. OIG sought to recoup the entire income I received for months of providing preapproved services to a medically needy Medicaid patient.

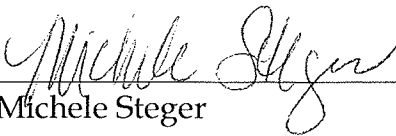
7. OIG sought to recoup Medicaid funds based on its findings of alleged noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy, specifically for non-correlation between the medication record, the record of treatment and the nurse's clinical notes.

8. In undergoing this audit, I have had to invest significant time and resources, including attorneys' fees, to rebut OIG's findings and recoupment attempt. This has imposed significant financial and emotional burdens on me.

9. I have reduced the number of days that I provide independent nursing care services to a Medicaid enrollee because I understand that OIG might come back years later and demand recoupment of days, weeks, months, or even years of income for services I actually provided to patients.



Dated this 11 day of March, 2016.

  
Michele Steger

Subscribed and sworn to before me  
this 11<sup>th</sup> day of March, 2016.

  
Ariane M. Welch

Notary Public, State of Wisconsin

My Commission Expires: is permanent

STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF JOHN GOSS**

---

State of Wisconsin       )  
                                      :SS.  
County of Dane            )

I, John Goss, being first duly sworn on oath, depose and state as follows:

1. I am a Professional Homecare Provider ("PHP") member and a Medicaid-certified nurse in independent practice.

2. I provide home-based nursing care to an adult with complex health needs and bill Medicaid for these services.

3. Without the private-duty nursing services provided by me and other independent nurses, the adult for whom I care would be unable to remain in his own home and would require institutionalization.

4. I, like many of PHP's members and other independent nurses, exclusively

provide services to Medicaid patients.

5. I have participated in PHP's informational training and educational services to nurses in independent practice.

6. I was the subject of an OIG audit conducted in 2013-2014, for the period June 1, 2012 through December 31, 2012.

7. In March 2015, OIG demanded to recoup approximately \$48,250.44 from me for care that OIG did not dispute was provided to a Medicaid patient, following OIG's prior authorization for the services.

8. OIG sought to recoup Medicaid funds based on its findings of alleged noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy, specifically for non-correlation between the medication record, the record of treatment and the nurse's clinical notes.

9. In undergoing this audit, I have had to invest significant time and resources, including attorneys' fees, to rebut OIG's findings and recoupment attempt. This has imposed significant financial and emotional burdens on me.

10. Due to the audit and potential recovery, I have considered whether I should continue to provide Medicaid care as a nurse in independent practice, or withdraw from the program as other nurses have done.

Dated this 11 day of March, 2016.

J. J. L. R. N.  
John Goss

Subscribed and sworn to before me  
this 11th day of March, 2016.

Aiane M. Wells  
Notary Public, State of Wisconsin  
My Commission Expires: is permanent

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403

Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF DEBRA ZUHSE-GREEN**

---

State of Wisconsin            )  
  :ss.  
County of Brown             )

I, Debra Zuhse-Green, being first duly sworn on oath, depose and state as follows:

1. I am a Professional Homecare Provider ("PHP") member and a Medicaid-certified nurse in independent practice.
2. I provide home-based nursing care to children with complex health needs and bill Medicaid for these services.
3. Without the private-duty nursing services provided by me and other independent nurses, I believe it is likely that many of these children would be unable to remain in their own homes and would require institutionalization.

4. I, like many of PHP's members and other independent nurses, exclusively provide services to Medicaid patients.
5. Reimbursements from Medicaid constitute my entire income.
6. I have participated in PHP's informational training and educational services to nurses in independent practice.
7. I was the subject of an OIG audit conducted in 2013-2014
8. OIG alleged that I owed them \$57,893.99 for care that OIG did not dispute was provided to Medicaid patients, following OIG's prior authorization for the services.
9. OIG sought to recoup the entire income I received for six months of providing pre-approved services to medically needy Medicaid enrollees.
10. OIG sought to recoup Medicaid payments from me primarily because I did not submit claims for reimbursement to the minor patients' parents' employer-based health plans despite the fact that it had previously been established that the employer-based health plans would not cover the private duty nursing services.
11. Although my billing practice was consistent with the Administrative Code, OIG based the finding on alleged noncompliance with language in the Medicaid Provider Online Handbook.
12. OIG also alleged other documentation shortcomings based on alleged inconsistencies with either the Medicaid Provider Online Handbook, provisions of the Administrative Code, or both.
13. In undergoing this audit, I had to invest significant time and resources,

including attorneys' fees, to rebut OIG's findings and recoupment attempt. This imposed significant financial and emotional burdens on me.

14. Based on the amount of money OIG claimed that needed to pay, while I was awaiting the final resolution of this matter I considered whether I would need to sell my home, cash in my retirement savings, and/or declare bankruptcy.

15. Eventually, my attorney and I were able to compile additional documentation (e.g., from the employer sponsored health plans), provide additional explanation, and convince OIG to reverse all of the audit findings.

16. Due to the audit, I have considered whether I should continue to provide Medicaid nursing care or withdraw from the program, as other nurses have done.

Dated this 12 day of March, 2016.

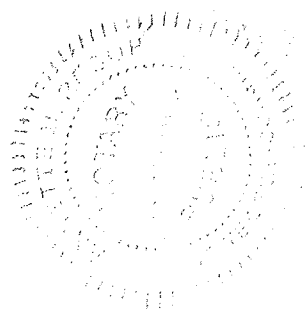
Debra Zuhse-Green  
Debra Zuhse-Green

Subscribed and sworn to before me  
this 12 day of March, 2016.

Annette M Rose

Notary Public, State of Wisconsin

My Commission Expires: 7/27/18



KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

Case No. 15 CV 2403

Case Code: 30701

---

**AFFIDAVIT OF GRETCHEN RUEDA**

---

State of Wisconsin            )  
  :ss.  
County of Dane                )

I, Gretchen Rueda, being first duly sworn on oath, depose and state as follows:

1. I am a Medicaid-certified nurse in independent practice.
2. I provide home-based nursing care to an adult with complex health needs and bill Medicaid for these services.
3. Without the private-duty nursing services provided by me and other independent nurses, the adult for whom I care would be unable to remain in his own home and would require institutionalization.
4. I was the subject of an OIG audit conducted in 2013-2014, for the period June 1, 2012 through December 31, 2012.



5. In March 2015, OIG demanded to recoup approximately \$35,534.03 from me for care that OIG did not dispute was provided to a Medicaid patient, following OIG's prior authorization for the services.

6. OIG sought to recoup Medicaid funds based on its findings of alleged noncompliance with a Medicaid Provider Update, a Handbook provision, an Administrative Code provision, or other standard or policy, specifically for non-correlation between the medication record, the record of treatment and the nurse's clinical notes.

7. In undergoing this audit, I have had to invest significant time and resources, including attorneys' fees, to rebut OIG's findings and recoupment attempt. This has imposed significant financial and emotional burdens on me.

8. Because of the OIG audit, I reduced the number of days I provide independent nursing care services to a Medicaid enrollee and have increased the hours that I work at a hospital.

9. I have significantly reduced the amount of independent nursing care I provide to Medicaid enrollees and delayed returning to school to earn my BSN because I understand that OIG might come back years later and demand recoupment of days, weeks, months, or even years of income for services I actually provided to patients.

Dated this 11 day of March, 2016.

  
Gretchen Rueda

Subscribed and sworn to before me  
this 11th day of March, 2016.



Notary Public, State of Wisconsin

My Commission Expires: is permanent

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF MARILYN ROTHFELDER**

---

State of Wisconsin            )  
  :ss.  
County of Racine             )

I, Marilyn Rothfelder, being first duly sworn on oath, depose and state as follows:

1. I am the parent of an adult child, Donyia, who has significant, complex medical needs.
2. Donyia is enrolled in Medicaid and receives private duty nursing care in our home.
3. Without the private duty nursing services provided by four independent nurses, I believe that Donyia would be unable to remain in our home and would need to move into an institution.

4. The Office of the Inspector General audited all four nurses who provide private duty nursing care to Donyaia.

5. The Office of the Inspector General seeks to recover funds from all four nurses for care they provided to Donyaia.

6. I have observed the stress that the recoupment attempts have placed on the four nurses who provide care in our home.

7. As the parent of an adult with special healthcare needs, I believe the task of hiring and retaining qualified Medicaid-certified nurses has been made far more difficult by the OIG's unjust recoupment efforts, which have caused nurses to seek other positions.

8. One of the nurses has reduced the number of days she is able to provide care to Donyaia to just one day a week because she has taken another position.

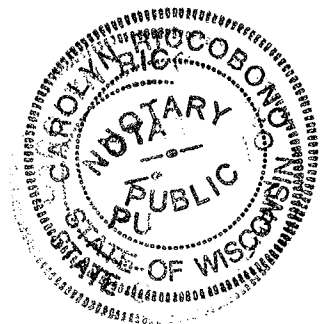
9. The disruption resulting from the change in nursing staff has increased Donyaia's emotional distress which manifests itself in significant violent outbursts. This is very dangerous for me and the nurses who care for him.

Dated this 10 day of March, 2016.

Marilyn Rothfelder  
Marilyn Rothfelder

Subscribed and sworn to before me  
this 10 day of March, 2016.

Carol Ann Rice  
Notary Public, State of Wisconsin  
My Commission Expires: August 3rd, 2018



STATE OF WISCONSIN

CIRCUIT COURT  
Br. 12

WAUKESHA COUNTY

---

KATHLEEN PAPA and  
PROFESSIONAL HOMECARE  
PROVIDERS, INC.

Plaintiffs,

Case No. 15 CV 2403  
Case Code: 30701

vs.

WISCONSIN DEPARTMENT  
OF HEALTH SERVICES,

Defendant.

---

**AFFIDAVIT OF SUSAN D. HAIDLINGER**

---

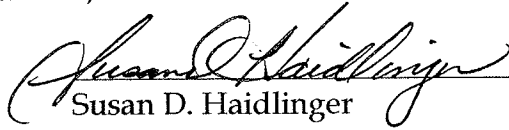
State of Wisconsin            )  
  :ss.  
County of Winnebago         )

I, Susan D. Haidlinger, being first duly sworn on oath, depose and state as follows:

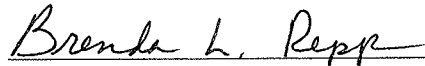
1. I am the adoptive parent of seven children with special needs.
2. I have also been a foster parent of children with special needs.
3. Currently, six of my adoptive children, many of whom are now adults, reside in our home. One of my daughters is deceased.
4. Our family's health plan has never covered private duty nursing care for anyone in the family, including our adoptive and foster children.
5. At present, two of my sons require private duty nursing care.
6. My sons are enrolled in Wisconsin Medicaid due to their significant disabilities and complex health needs.

7. Without the private duty nursing services provided by Wisconsin Medicaid nurses in independent practice, I believe my sons would be unable to remain in our home and would need to be placed into an institution.
8. I believe that it is much better for my sons – and all our children – to remain in our home surrounded by family where they receive loving, diligent care.
9. I fear that my sons would not survive in an institution, because of the level of one-to-one nursing care that is required to support their breathing and overall health.
10. In 2013-2014, the Office of the Inspector General (“OIG”) audited one of the nurses who provided nursing care to three of my children.
11. Despite the fact that the nurse provided quality care, consistent with each of my sons’ needs, OIG notified her that she was overpaid for six months of care and sought to recover the payments.
12. The nurse hired an attorney, who worked with the nurse and with me to provide information about my sons’ other insurance, as well as other information to rebut the audit findings.
13. The stress of the audit and the potential of having to pay back six months of her earnings caused significant emotional stress on the nurse, which led to the nurse having to take some time off from caring for my sons.
14. I observed the stress that the audit process placed on the nurses who provided care in our home.
15. Three of the other nurses who provided care for my sons decided to discontinue working as Medicaid nurses in independent practice and find other employment based on the risk of having to repay Wisconsin Medicaid for care they provided.
16. The OIG’s action, as well as our nurses’ reactions, caused significant stress and disruption for me and my family members.
17. As the parent of adults and a child with special healthcare needs, I believe the task of hiring and retaining qualified Medicaid-certified nurses has been made far more difficult by the OIG’s unjust recoupment efforts, which have caused nurses to seek other positions.

Dated this 12 day of March, 2016.

  
Susan D. Haidlinger

Subscribed and sworn to before me  
this 12 day of March, 2016.



Notary Public, State of Wisconsin

My Commission Expires: 5-11-19

**BRENDA L. REPP**  
Notary Public  
State of Wisconsin