

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT

SUFFOLK, ss

SUPERIOR COURT  
DOCKET NO: 2184CV01890

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CHERYL SEVERS brought on her behalf )  
by her legal guardians RUSSELL SEVERS )  
and ALBERTA SEVERS, )  
Plaintiff )  
vs. )  
EXECUTIVE OFFICE OF HEALTH )  
AND HUMAN SERVICES, MARYLOU )  
SUDDERS, Secretary of the Executive )  
Office of Health and Human Services, and )  
AMANDA CASSEL KRAFT, )  
Assistant Secretary for MassHealth, )  
Defendants )

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**PLAINTIFF’S MOTION FOR JUDGMENT ON THE PLEADINGS**

Pursuant to Rule 12(c) of the Massachusetts Rules of Civil Procedure and Superior Court Standing Order 1-96, Plaintiff Cheryl Severs moves this Court for judgment on the pleadings in her favor. Based on the facts as set out in the administrative record, she is entitled to judgment as a matter of law for the reasons stated in her accompanying memorandum of law.

Plaintiff filed her Complaint with this Court on August 19, 2021 for judicial review of a final decision by the Medicaid Board of Hearings dated July 20, 2021 denying Plaintiff a fair hearing to dispute the amount of Personal Care Attendant (PCA) services reduced by EOHHS as requested by her Personal Care Management Agency, Tempus. Her complaint was filed pursuant to G.L c. 30A, §14 and 42 U.S.C. §1983.

Plaintiff respectfully requests that (1) Defendants be ordered to require a new evaluation of Ms. Severs need for PCA services since May 28, 2021, (2) Defendants be ordered to conduct a fair hearing on MassHealth's May 7, 2021 decision approving the reduction of Plaintiff's PCA hours requested by Tempus effective May 28, 2021, and that (3) the Court issue a declaratory judgment that Defendants' policy and practice of denying the opportunity for a hearing and aid pending appeal when MassHealth approves a reduction in PCA hours requested by a PCM agency is an error of law and violates the due process clause of the United States Constitution, (4) the Court award Plaintiff her reasonable attorney's fees, (4) and the Court grant such further relief as it may deem just and equitable.

As explained in the accompanying memorandum in support of this motion, Defendants' refusal to consider Tempus' reduction of Plaintiff's PCA hours at a fair hearing is based upon an error of law, and is in violation of constitutional provisions. Further, the Board of Hearing's failure to order a new evaluation was arbitrary, capricious, or otherwise not in accordance with the law.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment on the pleadings in its favor and grant the relief requested in her Motion.

Respectfully submitted,

Plaintiff Cheryl Severs  
By her attorney

Date: February 11, 2022

/s/ Katherine Symmonds  
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## **REQUEST FOR HEARING**

Pursuant to Superior Court Rule 9A(c)(3) and Standing Order 1-96, Plaintiff respectfully requests a hearing on her Motion at the Court's earliest convenience.

## **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of this Motion for Judgment on the Pleadings was served upon Defendants by electronic mail on February 11, 2022 at:

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