

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
2184 CV 01890

CHERYL SEVERS, brought on her behalf by her)
 legal guardian RUSSELL SEVERS and)
 ALBERTA SEVERS,)
)
 Plaintiff,)
)
 v.)
)
 COMMONWEALTH OF MASSACHUSETTS)
 EXECUTIVE OFFICE OF HEALTH AND)
 HUMAN SERVICES (“MassHealth”),)
)
 Defendant)
)

ANSWER

Now comes the Defendant and answers the Plaintiff’s Complaint (the “Complaint”) by filing the certified copy of the administrative record, pursuant to G.L. c. 30A, § 14(4). To the extent the allegations in Plaintiff’s Complaint conflict with the certified administrative record they are denied.

FIRST AFFIRMATIVE DEFENSE – LACK OF SUBJECT MATTER JURISDICTION¹

Plaintiff’s claim must be dismissed because the Court lacks subject matter jurisdiction over the claim because Plaintiff has not demonstrated that the claim was filed within thirty days of receipt of the final administrative decision as required by the Administrative Procedures Act, M.G.L. c. 30A, § 14.

¹ In raising the following allegations as “affirmative defenses,” the defendant does not intend to concede that it has the burden of proof with respect thereto.

SECOND AFFIRMATIVE DEFENSE

Defendant has submitted a certified copy of the administrative record in this matter in accordance with G.L. c. 30A, §14, which provides the exclusive source of relief in this matter. To the extent the Complaint seeks relief unavailable under G.L. c. 30A, § 14, the Plaintiff has failed to state a claim for which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims must be dismissed on account of her own acts and omissions.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claim must be dismissed pursuant to the doctrine of estoppel and/or unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, were caused entirely by her own conduct and not by the conduct of Defendant.

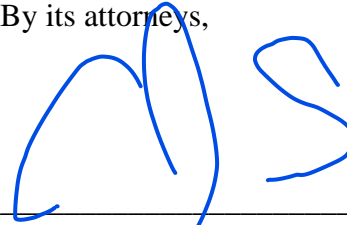
SIXTH AFFIRMATIVE DEFENSE

The Defendant expressly asserts the full immunity to which it may be entitled under principles of sovereign immunity.

WHEREFORE, the Defendant respectfully requests that this Court:

1. Deny the requested relief as it is not available under G.L. c. 30A, § 14;
2. Affirm the agency decision; and
3. Dismiss the Complaint with prejudice.

Respectfully Submitted,
OFFICE OF MEDICAID
By its attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon plaintiff by electronic mail on December 9, 2021 at:

ksymmonds@mlri.org



Charles J. Sheehan