

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
C.A. NO: 2484CV00824

ALVIN OWENS, ALVIN WALKER,)
)
 Petitioners,)
)
 v.)
)
 EDGAR P. BENJAMIN HEALTHCARE CENTER)
)
 Defendant.)

AFFIDAVIT OF LESLIE DARCY

I, Leslie Darcy, do hereby depose and state the following:

1. I am the Chief of the MassHealth Office of Long Term Services & Supports ("LTSS") at the Executive Office of Health and Human Services ("EOHHS").
2. In that capacity, I oversee the MassHealth Nursing Facility Program.
3. Edgar P. Benjamin Healthcare Center ("Benjamin Healthcare") is a nursing facility enrolled in MassHealth.
4. MassHealth typically pays eligible MassHealth-enrolled nursing facilities once per month for claims. Specifically, on the second week of the month facilities receive remittance advices from MassHealth for all adjudicated claims, and on the third week of the month facilities receive electronic fund-transfer ("EFT") payments from MassHealth, which are deposited into bank accounts designated by the facilities.
5. MassHealth made two (2) payments to Benjamin Healthcare recently, totaling \$239,363.91 for services provided in February 2024. The table below provides a breakdown of said payments and the bank account in which the payments were deposited

via EFT.

EDGAR P BENJAMIN HTLHCARE CTR								
Provider ID/Loc	NPI	RA Date	Payment Type	Payment Amount	EFT date	Payment Number	Bank	Last 4 Acct
110026693 A	042104452	3/26/2024	EFT	1,828.78	04/01/24	08914006859	ROCKLAND TRUST COMPANY	7940
110026693 A	042104452	3/12/2024	EFT	237,535.13	03/18/24	07514010151	ROCKLAND TRUST COMPANY	7940

6. Benjamin Healthcare receives almost all its revenues from the Commonwealth because the large majority of its residents are MassHealth members. The table below provides details on MassHealth members as a percentage of residents in the Benjamin Healthcare facility.

Billing Provider Name	Number of MassHealth residents*	Total number of residents**	MassHealth residents as a percentage of total residents
Edgar P Benjamin Healthcare Center	72	74	97%
*FFS members and members enrolled in a Senior Care Options ("SCO") plan or Program of All Inclusive Care for the Elderly ("PACE")			
**Based on self-reported data as of March 13, 2024.			

7. In December 2023, Benjamin Healthcare informed EOHHS that it was unable to make payroll and requested a cash advance against future claims.

8. In response to this request, EOHHS, through its MassHealth program, advanced \$300,000 to Benjamin Healthcare on, or about, December 20, 2023. As of March 29, 2024, Benjamin Healthcare had paid back \$105,150 and still owes MassHealth \$194,850. Under its recoupment plan for Benjamin Healthcare, MassHealth will continue to recoup up to \$25,000 per week from any payable amounts.

9. On March 29, 2024, at midday, Benjamin Healthcare’s CEO Tony Francis notified EOHHS that the facility, once again, could not meet its payroll obligations for staff for the previous pay period. I understand from the Department of Public Health

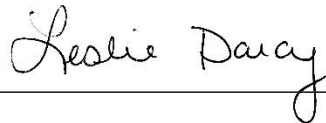
(DPH) that Benjamin Healthcare issued paychecks that same day to staff, but at least five staff members have confirmed to DPH that they were unable to cash their checks.

10. Benjamin Healthcare's failure to meet its payroll obligations on March 29, 2024, for the previous pay period, demonstrates that the facility is in extreme financial distress that threatens the health and safety of residents. There is risk that unpaid staff will not show up for work. Nursing facility staff keep patients safe by supporting their daily needs such as eating, bathing, toileting, transferring or ambulating safely. If staff do not show up for work, patients are in imminent danger of death or serious physical harm.

11. Under 101 CMR 206.06(9), EOHHS may adjust a nursing facility's standard rates if a receiver has been appointed under M.G.L. c. 111, § 72N solely to reflect the reasonable costs, as determined by EOHHS and the MassHealth agency, associated with the court-approved closure or sale of the nursing facility or other appropriate situation.

12. Upon appointment of the receiver and review of the financials and operations of Benjamin Healthcare, MassHealth will determine whether there is a sufficient basis to raise Benjamin Facility's standard rates under 101 CMR 206.06(9).

Signed under the pains and penalties of perjury, this 2nd day of April, 2024.

A handwritten signature in cursive script that reads "Leslie Darcy". The signature is written in black ink and is positioned above a horizontal line.

Leslie Darcy