

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 12

WAUKESHA COUNTY

KATHLEEN PAPA and
PROFESSIONAL HOMECARE PROVIDERS, INC.

Plaintiffs,

Case No. 15-CV-2403

v.

WISCONSIN DEPARTMENT OF HEALTH SERVICES

Defendant.

[PROPOSED] ORDER

This matter came before the Court for a hearing on February 14, 2017, on Plaintiffs' Motion for Supplemental Relief under Wis. Stat. § 806.04(8) or, Alternatively, for Sanctions under Wis. Stat. § 785.04. The Plaintiffs, Kathleen Papa and Professional Homecare Providers, Inc. ("Plaintiffs"), appeared by Attorneys Diane M. Welsh and Susan M. Crawford of Pines Bach LLP. The Defendant, the Department of Health Services ("Department"), appeared by Assistant Attorney General Christopher Blythe of the Wisconsin Department of Justice.

Pursuant to its authority under Wis. Stat. §§ 806.04(8) and 808.07(2)(a)3., the Court hereby GRANTS the Plaintiffs' Motion for Supplemental Relief. To restate and give effect to the declaratory judgment and injunction previously entered by this Court, the Court orders:

1. The Department of Health Services shall not issue a notice of intent to recover Medicaid payments to, or otherwise recoup funds from, a Medicaid provider

- if the provider's records verify that the services were provided and the provider was paid an appropriate amount for such services, notwithstanding that an audit identified other errors or noncompliance with Department policies or rules;
2. The Department of Health Services shall not further any agency action, including an administrative proceeding, currently underway in which the Department seeks to recoup Medicaid payments from a Medicaid provider, if the provider's records verify that the services were provided and the provider was paid an appropriate amount for such services, notwithstanding that an audit identified other errors or noncompliance with Department policies or rules; and
 3. The Department of Health Services shall pay the Plaintiffs' costs and attorneys' fees incurred for prosecuting this Motion.

IT IS SO ORDERED.

Dated this 23rd day of March, 2017

BY THE COURT:

Electronically signed by Hon. Kathryn W. Foster

Kathryn W. Foster, Judge