

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

M.A. by and through his parents MIGUEL )  
AVILA, SR. and HERMINA AVILA, )  
F.L. by and through his mother, JACQUETTA )  
PEARSON, Y.R. by and through her mother )  
CAROLINA BARRANCO, H.S. by and through )  
his parents RICARDO SORIA and GEORGINA )  
RIVERA, individually and on behalf of a class, )

No. 15-3116  
Judge: Joan H. Lefkow  
Magistrate: Sheila M. Finnegan

Plaintiffs,

vs.

FELICIA F. NORWOOD, in her official capacity )  
As Director of the Illinois Department of )  
Healthcare and Family Services, )

Defendant.

**PLAINTIFFS' PETITION FOR RULE  
TO SHOW CAUSE AND OTHER RELIEF**

Now comes the Plaintiffs, by and through their attorneys, Robert H. Farley, Jr., Ltd., Cahill & Associates, Michelle N. Schneiderheinze, and Legal Council for Health Justice, and presents the Petition for Rule to Show Cause and Other Relief, and in support thereof states as follows:

1. Despite this Court ordering the Defendant, Felicia Norwood, "to refrain from imposing any further reductions in-home skilled nursing services to Plaintiffs and the proposed Class pending further order of this Court," the Defendant has willfully and wantonly failed to comply with this Court's Order. (Doc. 16, attached as Exhibit "B"). On October 13, 2015, the Defendant gave written notice to L.T., a proposed class member, that his "in-home shift nursing services" would be reduced from a monthly allocation of \$16,514 to \$13,318 which results in a reduction of approximately 20%. (See Exhibit "A").

2. On April 22, 2015, this Court entered a Temporary Restraining Order which ordered as follows:

IT IS THEREFORE ORDERED that Defendant Felicia Norwood is required to restore any in-home skilled nursing services to Plaintiffs and the proposed Class which were eliminated or reduced after December 1, 2014, and to refrain from imposing any further reduction in in-home skilled nursing services to Plaintiffs and the proposed Class pending further order of this Court. (Doc. 16 – See Exhibit “B”).

On May 12, 2015, the Minute entry states: “By agreement of the parties, the temporary restraining order is continued until further order of court.” (Doc. 20 – See Exhibit “C”).

3. L.T. is a proposed Class member. The proposed Class is defined as follows:

All Medicaid-eligible children under the age of 21 in the State of Illinois who received in-home shift nursing services or applied for in-home shift nursing services and received notices from the Illinois Department of Healthcare and Family Services that their requests for in-home shift nursing services had been denied or reduced or approved at a lower level than requested or terminated by the Illinois Department of Healthcare and Family Services on or after January 1, 2014.<sup>1</sup> (Doc. 25, at page 1).

4. The Defendant has willfully and wantonly failed to comply with this Court’s Order of April 22, 2015 by giving the proposed class member, L.T., written notice dated October 13, 2015 that his “in-home shift nursing services” would be reduced from a monthly allocation of \$16,514 to \$13,318 which results in a reduction of approximately 20%. (See Exhibit “A”).

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<sup>1</sup> The proposed Class definition in paragraph 3 above reflects a revised class definition contained in Plaintiffs’ Amended Motion for Class Certification. The proposed Class definition at the time this Court entered the Temporary Restraining Order, prior to the filing of the Amended Motion for Class Certification, defined the Class as follows:

All persons who received in-home skilled nursing services or were seeking in-home skilled nursing services and received a Notice of Decision on Request for Medical service/Item from the Illinois Department of Healthcare and Family Services informing them that their skilled nursing services or request for skilled nursing services would be denied or reduced. (Doc. 4, at page 1).

L.T. is a proposed class member under either class definition.

WHEREFORE, the Plaintiffs' request that this Court grant the following relief:

- A. To issue a Rule to Show Cause against the Defendant, Felicia Norwood, as to why she should not be held in Contempt of Court for failing to comply with the Temporary Restraining Order which has been continued until further order of Court.
- B. That during the pendency of Plaintiffs' Petition for Rule to Show Cause, that the Defendant be ordered to provide a list of every person who received a notice after April 22, 2015 from the Defendant that the Illinois Department of Healthcare and Family Services has determined that the person requires in-home shift nursing services at less than the prior allotted level as well as a copy of all such notices.
- C. That the Plaintiffs' counsel be awarded reasonable attorney fees and costs.

Respectfully submitted,

/s/ Robert H. Farley, Jr.

One of the Attorneys for  
Plaintiffs and proposed  
Class

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**CERTIFICATE OF SERVICE**

I, Robert H. Farley, Jr., Attorney for the Plaintiffs, deposes and states that he caused the foregoing Plaintiffs' Petition for Rule to Show Cause and Other Relief, to be served by electronically filing said document with the Clerk of the Court using the CM/ECF system, this 15th day of October, 2015.

/s/ Robert H. Farley, Jr.

**EXHIBIT “A”**



Bruce Rauner, Governor  
Felicia F. Norwood, Director

201 South Grand Avenue East  
Springfield, Illinois 62763-0002

Telephones: (217) 782-1200  
TTY: (800) 526-5812

[Redacted]  
[Redacted]  
[Redacted]

Date of Notice: October 13, 2015

Case I.D. Number: [Redacted]  
Recipient Number: [Redacted]

Your child is currently receiving coverage of in-home shift nursing services from the Illinois Department of Healthcare and Family Services (the Department). See 89 Ill. Admin. Code 140.472(b). Prior approval is required for all in-home shift nursing for children under 21 years of age. See 89 Ill. Admin. Code 140.473(d). The Department prior approves in-home shift nursing services that it determines to be medically necessary and appropriate to meet the child's medical needs. 89 Ill. Admin. Code 140.473(e).

Based on a face-to-face interview, the medical records in the case file, and any additional information provided by you, the Department has determined that your child requires in-home shift nursing services at less than the prior allotted level. See Ill. Admin. Code 140.473(e).

Based upon a current review of your child's medical need for in-home shift nursing services, the Department grants prior authorization effective 10/1/15 - 04/10/16 for monthly allotment of \$13,318.00 (that includes nursing and certified nursing aide care (minus any nursing/certified nursing aide hours provided by insurance or school if applicable). Rates for all services are authorized as follows: \$35.03/hr RN, \$31.14/hr LPN and \$20.00/hr Certified Nursing Aide. You are also authorized for 336 hours of respite in addition to the monthly budget amount.

This is a reduction in the amount of covered in-home shift nursing benefits for your child. Your child has been receiving a monthly allocation of \$16,514.00 per month.

Your child's new monthly allocation will be put in place based on the transition schedule below. If at any point during this transition process there is a change that creates a need for more in-home shift nursing hours, you may notify your DSCC care coordinator and provide documentation, and the Department will consider a request for increase in services.

Approval Dates	Amount
10/1/15 - 10/31/15	\$16,514/per month
11/01/15 - 11/30/15	\$14,383/per month
12/01/15 - 04/10/16	\$13,318/per month

The University of Illinois at Chicago's Division of Specialized Care for Children (DSCC) will work with the Department to provide a medical case management plan for your child's care. In addition, DSCC will assist you and your family in identifying additional resources that may be able to provide both medical and non-medical services during and after the conclusion of the transition period. DSCC has been providing medical case management for children with special health care needs and their families for many years. You can contact DSCC at 217-558-2350 or 800-322-3722.

Your DSCC Care Coordinator will share information with you regarding a process to request consideration of an exception to the monthly allocation for in-home shift nursing services stated above, based on your child's medical care needs. Seeking an exception is not an appeal, does not change or extend the time you may have to file an appeal, and does not remove your right to appeal the above decision within the time allowed.

This notice affects only your child's authorization for in-home shift nursing services and is not a denial of eligibility for medical assistance or any other covered service.

  
Signature of Approving Authority

DSCC Regional Office: Champaign

**YOU HAVE A RIGHT TO APPEAL**

If you disagree with this decision, you may, at any time within 60 days following the date of this notice, appeal this decision and be given a fair hearing. You may represent yourself at this hearing or you may be represented by anyone else, such as a lawyer, relative, or friend. You can ask for a fair hearing or ask for more information about the appeal process by contacting (855) 418-4421 (voice); (877) 734-7429 (TTY); HES.FairHearings@Illinois.gov (email); (312) 793-2005 (fax); or (in writing) HFS Fair Hearings Section, 69 W. Washington, 4th Floor, Chicago, IL 60602. Your services will be continued at their current amount pending the results of your appeal if you file your appeal on or before 11/01/15.

# **EXHIBIT “B”**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

M.A. by and through his parents MIGUEL	)		
AVILA, SR. and HERMINA AVILA,	)		
F.L. by and through his mother, JACQUETTA	)		
PEARSON, Y.R. by and through her mother	)		
CAROLINA BARRANCO, H.S. by and through	)		
his parents RICARDO SORIA and GEORGINA	)	No.	15-3116
RIVERA, individually and on behalf of a class,	)		
	)	Judge:	Joan H. Lefkow
Plaintiffs,	)		
vs.	)	Magistrate:	Sheila M. Finnegan
	)		
FELICIA F. NORWOOD, in her official capacity	)		
As Director of the Illinois Department of	)		
Healthcare and Family Services,	)		
	)		
Defendant.	)		

**TEMPORARY RESTRAINING ORDER**

This cause comes before the Court on the Plaintiffs' and Class Verified Motion for Temporary Restraining Order and Preliminary Injunction. Plaintiffs appear by and through their attorneys, Robert H. Farley, Jr., Ltd. and Michelle N. Schneiderheinze. Defendant appears by and through their attorney John E. Huston. Having been fully advised, the Court finds that Plaintiff has demonstrated a need for a Temporary Restraining Order on behalf of the Plaintiffs and proposed Class. At the very least, the Defendant appears to be utilizing inadequate notices when informing Plaintiffs and the proposed Class members about the elimination or reduction of their in-home skilled nursing services.

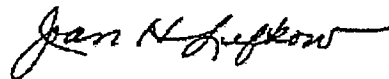
IT IS THEREFORE ORDERED that Defendant Felicia Norwood is required to restore any in-home skilled nursing services to Plaintiffs and the proposed Class which were eliminated or reduced after December 1, 2014, and to refrain from imposing any further reductions in in-

Exhibit "B"

home skilled nursing services to Plaintiffs and the proposed Class pending further order of this Court.

The Defendant shall file a response to Plaintiffs' and Class Verified Motion for Temporary Restraining Order and Preliminary Injunction on or before April 30, 2015.

This matter is set for further hearing on May 6, 2015 at 10:15 a.m.



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Joan H. Lefkow  
United States District Judge

Dated: April 22, 2015

Approved:

/s/Robert H. Farley, Jr.  
Robert H. Farley, Jr., Ltd.  
1155 S. Washington Street  
Naperville, IL 60540  
630-369-0103  
farleylaw@aol.com

Approved as to form:

/s/ John E. Huston  
John E. Huston  
Senior Assistant Attorney General  
Welfare Litigation Bureau  
160 N. LaSalle St. Ste. N-1000  
Chicago, IL 60601

# **EXHIBIT “C”**

UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1  
Eastern Division

M. A., et al.

Plaintiff,

v.

Case No.: 1:15-cv-03116

Honorable Joan H. Lefkow

Felicia F Norwood

Defendant.

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NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, May 12, 2015:

MINUTE entry before the Honorable Joan H. Lefkow: Motion hearing held on 5/12/2015. Defendant's time to answer or otherwise plead to the complaint and respond to Plaintiffs' motion for class certification is extended to and including 6/19/2015. By agreement of the parties, the temporary restraining order is continued until further order of court. Scheduling Conference is set for 6/16/2015 at 11:00 a.m. Mailed notice(ewf,)

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov).

Exhibit "C"