

dispute that its campaign statements, as well as several late contribution reports, were filed late.

HCF already has paid the statutory penalties. In January, 2013, the Bureau of Elections assessed

HCF the following late fees for failure to timely file reports:

2012 pre-primary CS	\$1,000.00
2012 pre-general CS	\$1,000.00
late contribution report	\$1,825.00
late contribution report	\$1,525.00
late contribution report	\$1,325.00

These late fees, totaling \$6,675.00, were paid by HCF. (Ex. Q) Based on the fact that statutory penalties already have been paid for the late filings, any further action would be cumulative and overly punitive. That especially is the case inasmuch as the public knew exactly how much HCF contributed to CAQHC, since all of the contributions were timely and accurately reported on CAQHC's campaign statements.

Sec. 34(7) [Complt. ¶¶27-28]

Sec. 34(7), MCL 169.234(7), states:

If a treasurer or other individual designated as responsible for the record keeping, report preparation, or report filing of a ballot question committee knowingly files an incomplete or inaccurate statement or report required by this section, that treasurer or other designated individual is subject to a civil fine of not more than \$1,000.00 or the amount of the undisclosed contribution, whichever is greater.

The Complaint alleges that Dohn Hoyle violated Sec. 34(7) because, as Treasurer of CAQHC, he reported contributions from HCF, while "he must have known that the contributions falsely reported as coming from [HCF] were, in reality, contributions from various SEIU organizations." According to the Complaint, Mr. Hoyle should assessed a civil fine in the amount of \$9.6 million.

The Complaint seeks to impose such an extreme civil penalty on Mr. Hoyle based on the

fact that he *accurately* reported the contributor of financial support received by CAQHC. Mr. Hoyle did not file an inaccurate or incomplete report. The contributions received by CAQHC were made by HCF, and as Treasurer Hoyle filed reports that accurately reported the contributor as HCF. Mr. Hoyle could not have reported the contributors as the SEIU organizations because those entities did not make contributions to CAQHC.⁵ Reporting the contributors as SEIU organizations would have resulted in an inaccurate report.

It should be added that imposition on Mr. Hoyle of a \$9.6 million fine, as the Complaint urges, would support a facial and as applied challenge to the constitutionality of Section 34(7) under the free speech and due process clauses of the Michigan and U.S. Constitutions. Not only is the possibility of a \$9.6 million fine against an individual under these circumstances unconstitutionally excessive, but *any* civil penalty against Mr. Hoyle would violate due process because there were no “undisclosed contributions.” CAQHC accurately reported all of the contributions that it received.

CONCLUSION

As is the case with many other advocacy and community organizations, the organizers of HCF believed that they could legally contribute unlimited amounts to a ballot question committee without themselves registering as one, understanding that the ballot question committee would be reporting their organization’s contributions. The Complaint over dramatizes these events as a “conspiracy” or “scheme” to “launder” or conceal contributions. That hyperbole does not square with reality. If the Michigan Freedom Fund is correct that Respondents schemed to avoid

⁵ This despite the fact that, as indicated above, the SEIU International Union BQC mistakenly reported having made direct contributions to CAQHC.

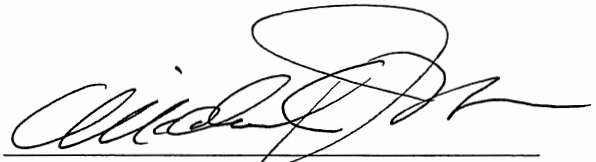
disclosure of SEIU's support for Proposal 4 by using HCF as cover, how do they explain the fact that SEIU formed a BQC when it wasn't required to, and then filed reports showing contributions directly to CAQHC? Those were not the actions of an organization intent on concealing its support for Proposal 4. As discussed earlier, the reality is that SEIU's support for Proposal 4 was not a closely-held secret; it was common knowledge and was widely publicized during the campaign. When the facts are viewed in relation to the specific provisions of the MCFA, as they should be, it is clear that the Complaint is without substance.

SACHS WALDMAN, P.C



ANDREW NICKELHOFF (P37990)
Attorneys for Citizens for Affordable
Quality Home Care and Home Care
First, Inc.
2211 E. Jefferson Ave., Ste. 200
Detroit, MI 48207
(313) 496-9429
anickelhoff@sachswaldman.com

MILLER CANFIELD PADDOCK
& STONE, PLC



MICHAEL J. HODGE (P25146)
Attorneys for Dohn Hoyle
and Norm DeLisle
1 E. Michigan Ave. Ste. 900
Lansing, MI 48933
(517) 487-2070
hodge@millercanfield.com

Dated: October 21, 2013

MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

GIDEON D'ASSANDRO,

Complainant,

v

CITIZENS FOR AFFORDABLE QUALITY
HOME CARE, HOME CARE FIRST, INC.,
DOHN HOYLE, and NORM DELISLE,

Respondents.

AFFIDAVIT OF DOHN HOYLE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Dohn Hoyle, being duly sworn, states that if called to testify in the above referenced matter, he can say from personal knowledge the following:

1. He is the Executive Director of ARC of Michigan, a non-profit corporation which was established in 1951 for the purpose of advancing the care and rights of people with developmental disabilities.

2. Both he and ARC were involved in supporting the establishment of the Michigan Quality Community Care Council (MQC3), which was created by Executive Order issued by Governor Jennifer Granholm in 2004 with the purpose of compiling a registry of screened home health care providers to enable Medicaid-eligible disabled and elderly home care patients to obtain better in-home personal care services.

3. In 2011, the Legislature defunded MQC3 and, in response, he and other activists interested in improving services for low-income elderly and disabled individuals, decided to organize and take action. On March 13, 2012, he was one of the incorporators of Home Care First, Inc. (HCF), a non-profit corporation created with the primary task of finding a means of resurrecting the MQC3 or at least restoring as many of its services as possible.

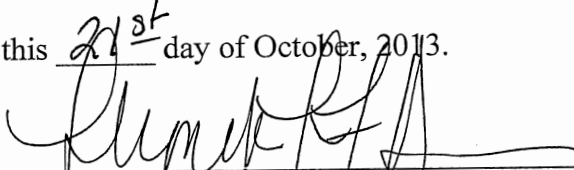
4. He also served as the Treasurer of Citizens for Affordable Quality Home Care (CAQHC) which registered as a ballot question committee on or about March 2, 2012 for the purpose of placing a home care proposal on the 2012 ballot which would have established a Michigan Quality Home Care Council to regulate the home care provider industry; establish a registry of trained and certified home care workers who had passed background checks for use by patients seeking competent and reliable home care providers; promulgate minimum standards of compensation and conditions of employment for home care providers and allow home care providers to engage in collective bargaining with the council. On October 30, 2012, a Statement of Organization was filed designating HCF as a ballot question committee. This was done because he and other supporters were confused about whether HCF, Inc. was required to register as a ballot question committee. Prior to filing the Statement of Organization, and even to this day, he and his colleagues were operating with the understanding that a 501(c)(4) corporation was authorized to contribute unlimited amounts to ballot question committees without becoming one itself. He, and other leaders involved in the ballot proposal were, however, informed very late in the campaign that HCF should register out of an abundance of caution since, at least arguably, it had received contributions that were for the purpose of supporting proposal 4. Even as of the date of signing this Affidavit, it remains unclear to him whether any such legal obligation exists.

FURTHER AFFIANT SAYTH NOT.



Dohn Hoyle

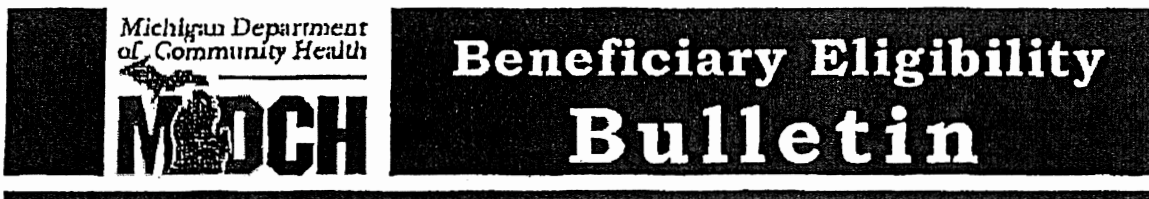
Subscribed and sworn to before me this 21st day of October, 2013.



Rhonda R.F. Dancer, Notary Public
State of Michigan, County of Ingham

My Commission Expires: 3/17/2018

Acting in Ingham County



Distribution: Health Care Eligibility Policy 04-07

Issued: November 23, 2004

Subject: Establishment of the Michigan Quality Community Care Council (QCCC)

Effective: December 23, 2004

Programs Affected: Medicaid

NOTE: While the effective date of this policy is December 23, 2004, the policy will not be implemented by the Michigan Quality Community Care Council (QCCC) until the QCCC Board of Directors and the Michigan Department of Community Health (MDCH) have executed a signed transfer agreement. The transfer agreement will describe the respective roles and responsibilities of each party in implementing this policy.

The MDCH and the Tri-County Aging Consortium have entered into an agreement under the Urban Cooperation Act, Public Act 7 of 1967, to create the Michigan Quality Community Care Council (QCCC). The QCCC is an independent governmental agency formed to enhance and expand the provision of personal care services rendered by individual providers, including the creation and maintenance of a registry(ies) of qualified direct care workers. The QCCC will also facilitate and coordinate support services for individual providers of personal care services in order to improve the quality and outcomes of services provided to Home Help beneficiaries.

Every individual personal care provider will be associated with, and eligible for, support from the QCCC. This bulletin introduces and describes the QCCC and its responsibilities.

Definitions

The following terms are used throughout this bulletin.

- QCCC:** Michigan Quality Community Care Council
- Provider:** Individual provider of personal care services. (This does NOT include agencies that provide Home Help services or their employees.)
- Beneficiary:** The Medicaid beneficiary who is receiving Home Help services.
- Registry:** A listing(s) of individual personal care provider candidates who meet enhanced qualifications to be determined by the QCCC. There may be several registries, organized by region or for specialty needs. Participation in the registry is voluntary.

Michigan Quality Community Care Council (QCCC)

An underlying principle of the QCCC is the beneficiary's right to decide from whom and how they receive their services, as long as selected individual providers meet the minimum requirements of the Medicaid program. The beneficiary is responsible for managing the individual provider, including the selection of any individual who meets Medicaid requirements, directing the provision of services, and dismissal of that individual provider, if necessary. With implementation of this policy, all individual providers will become associated with the QCCC at the point of their assuming the individual provider responsibilities for the beneficiary who has selected them. A central purpose of the QCCC is to support the individual provider's capacity to successfully provide services to the beneficiary, thereby supporting service outcomes for the beneficiary. The QCCC will also develop methods to

assist beneficiary access to provider candidates via provider candidate registries. Individual providers may choose to be included on the registry. The registry will include only those individuals who apply and are screened and accepted for listing on one or more registries. To be accepted, an individual provider must meet criteria for registry membership (e.g., training, experience, background, references) as established and applied by the QCCC.

Registries are intended to make potential individual home help provider candidates available for final screening by beneficiaries seeking a provider, for accessing provider candidates who may be available to provide emergency or back-up services, and for situations where specialized qualifications are sought by a beneficiary. However, a beneficiary is not required to select a provider from only those candidates on a registry.

The creation of the QCCC does NOT:

- Change the method of obtaining Home Help services.
- Change the Family Independence Agency's (FIA) role and responsibilities in implementing the Home Help program.
- Change the services provided or the number of hours of services received.
- Change the beneficiary's right to select any qualified individual as their home help provider.
- Change the beneficiary's responsibilities for selecting, hiring, directing, or dismissing, if necessary, the provider.
- Change the payment schedule or method of payment.
- Change the enrollment process and payment methodology for Home Help services through the FIA.

The QCCC WILL:

- Provide a support system for beneficiaries and providers.
- Assume the responsibility, under an agreement with the State of Michigan, for the payment process. (NOTE: The payment process itself will not change – only the agency that has responsibility for it.)
- Create and maintain a registry(ies) of individual home help provider candidates to improve beneficiary access to individual providers.

Support

The QCCC can support the Adult Services program of the FIA by providing the following activities. The activities often involve FIA workers becoming engaged in problem-solving to assist the beneficiary in procuring and managing his provider so that he may be assured of receiving Home Help Services.

- Offer a registry(ies) of individual providers for beneficiaries who:
 - > Are seeking assistance with finding a provider.
 - > May require a replacement provider on an emergency basis.
 - > Require a provider with apparent capacity to meet specialized needs.
- Provide assistance, within the capabilities of the QCCC, to beneficiaries who use Home Help providers. Assistance may include accessing beneficiary training in employer responsibilities, dealing with personalities and problem situations, and in other employer-related activities.
- Assist beneficiaries by facilitating access to help with employer/employee issues and problem solving.
- Maintain, within the capabilities of the QCCC, a support system for individual providers, assist the provider with ways to access assistance in removing barriers to work (e.g., child care or transportation services, information about benefits the provider may be eligible for), and serve as a resource pool to assist in maintaining employment.

Assisting the Beneficiary with Finding a Provider

The QCCC may assist the beneficiary by providing the following services:

- Establish and maintain a registry(ies) of qualified individual providers as a resource to assist beneficiaries in finding providers.
- Conduct recruitment and retention programs to expand the pool of individual Home Help providers.
- Develop a system that facilitates provision of routine and emergency referrals of qualified individual providers.

Assisting the Provider to be Successful in Serving the Beneficiary

The QCCC may assist the provider by providing the following services:

- Evaluate barriers to employment; disseminate information to individual providers and beneficiaries, with referral to provider supports that enhance retention.
- Facilitate and coordinate mentoring services that support beneficiary-provider relationships.
- Facilitate and coordinate advanced training for individual providers to increase workforce capabilities.

The FIA may use the QCCC as an additional resource for obtaining qualified individual Home Help providers. Individual providers will automatically be considered participants in QCCC when they have been approved by FIA as a Home Help provider for a beneficiary, and have been selected to serve as a home help provider by a beneficiary.

Home Help individual providers will be sent information regarding the QCCC, its purpose, goals, and benefits. The information will contain specific instructions for participation in the QCCC and will identify methods of making contact and acquiring additional information.

Contact Information

Individuals seeking additional information regarding the QCCC may obtain the information at the QCCC website at www.mqccc.org, through e-mail at info@mqccc.org, or via telephone contact at 1-800-879-4662.

Manual Maintenance

Retain this bulletin for future reference.

Questions

Any questions regarding this bulletin should be directed to Eligibility Policy, Department of Community Health, P.O. Box 30479, Lansing, Michigan 48909-7979 or e-mail EligibilityPolicy@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, and phone number so you may be contacted if necessary. Providers may phone toll free 1-800-292-2550.

Approved



Paul Reinhart, Director
Medical Services Administration

Home Care First, Inc. (FEIN 32-0371977)
Attachment to IRS Form 1024 (Appl. for Recognition of Exemption under IRC §501(c)(4) (Social Welfare Org.)



JILL JINIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JANET OLSZEWSKI
DIRECTOR

**TRANSFER AGREEMENT BETWEEN THE
DEPARTMENT OF COMMUNITY HEALTH
and the
MICHIGAN QUALITY COMMUNITY CARE COUNCIL**

I. Purpose

The Michigan Quality Community Care Council (QCCC) was created by the Michigan Department of Community Health (Department) and the Tri-County Aging Consortium pursuant to an agreement authorized by the Urban Cooperation Act, Public Act 7 of 1967 and filed with the Michigan Secretary of State on June 10, 2004 (Interlocal Agreement). The QCCC is an independent public agency created to improve the coordination, identification, recruitment, retention, training, and support of providers and support to consumers of personal assistance services rendered by Individual Providers. Medicaid HCEP Bulletin 04-07 issued by the Department promulgates policy that defines the role and functions of the QCCC with respect to the Department's Medicaid Home Help program.

The Department is a principle department of the State of Michigan and has the responsibility as the Single State Agency recognized by the Centers for Medicare and Medicaid, to administer the Medical Assistance Program. Michigan's Medical Assistance program includes coverage of Adult Home Help Services for eligible Consumers, which may include personal and nonpersonal activities of daily living, MCL 400.103c. The Department is responsible for policy development and promulgation, consumer eligibility determinations, provider enrollment, claims payment, oversight, monitoring, and administration of the Adult Home Help Services program under 1979 AACS, R 400.1101 to 400.1107.

The Department and the QCCC desire to ensure implementation of the Medicaid HCEP Bulletin 04-07 (copy attached) to assure fulfillment by the QCCC of its responsibilities as set forth in the Interlocal Agreement related to Medicaid Home Help program services provided directly to Consumers by individual Providers. In furtherance of this goal, the Department and the QCCC enter into this "Transfer Agreement" under the authority of Sections 1.27 and 6.09 of the Interlocal Agreement that established the QCCC.

This agreement establishes the terms and conditions of the Department's and QCCC's implementation of the Medicaid HCEP Bulletin 04-07, and the respective roles of the QCCC

BUREAU OF HEALTH SYSTEMS
811 W OTTAWA 1st FLOOR PO BOX 30884 LANSING, MICHIGAN 48909
www.michigan.gov/bhs • (517) 241-2828

Transfer Agreement Between MDCH and MQCCC
Page 2 of 2

and the Department in assuring implementation of Medicaid HCEP Bulletin 04-07 in an effective and efficient manner.

II. Definitions

1. "Consumer" means a person receiving Personal Assistance Services as a beneficiary of the Home Help Program or another program or service that is publicly or privately funded and that is designated by the QCCC Board to be consistent with the purposes set forth in Article II of the Interlocal Agreement.
2. "Home Help Program" means the Adult Home Help Services Program that is part of the Medicaid Program under MCL 4003109c, through which payments are made under 1979 AACRS, R 400.1101 to 400.1107 on behalf of eligible persons to individual Providers for covered Personal Assistance Services furnished to Consumers living in their own home.
3. "Personal Assistance Services" means assistance with personal and nonpersonal activities of daily living to a person with functional limitations in meeting basic needs, such as a person with a medical or physical disability or cognitive impairment, and with acquiring, regaining, and maintaining the individual's participation in their home, neighborhood, and community through the provision of direct support services, and other services authorized by the Home Help Program or another program or service that is publicly or privately funded and that is designated by the QCCC Board to be consistent with the purposes set forth in Article II of the Interlocal Agreement.
4. "Provider" means an individual who meets all the following criteria:
 - a. The individual is appointed or designated by the QCCC as eligible to provide Personal Assistance Services to one or more Consumers;
 - b. The individual is selected and employed by a Consumer to provide Personal Assistance Services;
 - c. The Personal Assistance Services provided by the individual are accessed through the QCCC; and
 - d. The QCCC performs the functions outlined in Article VI of the Interlocal Agreement for the individual.

III. QCCC Duties

The QCCC agrees, subject to this Transfer Agreement, to implement the policies contained in the Medicaid HCEP Bulletin 04-07, pursuant to Article VI of the Interlocal Agreement and the DCH/QCCC fiscal year grant agreement (20050528 for 2005) that includes a detailed work plan and timelines. The timeframes for this set of activities will be detailed in a work

Transfer Agreement Between MDCH and MQCCC
Page 3 of 3

plan developed by the Council. The work plan may be modified as needed during the term of this agreement, in order to effectively accomplish implementation of the bulletin. The QCCC will assume responsibility for working with the Department to learn all aspects of the provider payment process operated by the Department as described in Paragraph IV.2 of the HCEP Bulletin 04-07, in order to be prepared in the future to assist, or to assume, in whole or in part, responsibility for performing this function and in order to fully comprehend the Home Help Program and all its components.

IV. Department Duties

1. The Department will endeavor to provide support and resources to the QCCC as necessary to implement the policies contained in Medicaid HCEP Bulletin 04-07 and Article VI of the Interlocal Agreement, within the constraints of funds appropriated by the legislature. The support and resources will be determined by fiscal year and obtained pursuant to a fiscal year DCH/QCCC grant agreement, separate from this agreement. If funding is not made available by the Department to the Council for maintenance of its duties under Section III, the Council may terminate this agreement by providing 30 days notice in writing to the Department.
2. In order to assure smooth and efficient payment of fees to individual providers on behalf of Consumers in accordance with the requirements of the Home Help Program, the Department will continue the operation of the Provider payroll processing service related to the Home Help Program under 1979 AACS, R 400.1101 to 400.1107 and the IRS Code Section 3504 and Internal Revenue Service Revenue Procedure 70-6.

V. Performance Objectives

The Department and QCCC will develop methods, forms, and timelines that implement the grant agreement and approved work plan. The objectives will be consistent with the requirements of the Adult Home Help Services program under 1979 AACS, R 400.1101 to 400.1107 and all applicable requirements under Michigan law.

VI. Funding

1. The QCCC agrees that compensation to individual Providers made by the Department on behalf of the Consumer for covered Home Help Services will be the sole compensation for these services and no additional fee will be charged to any person for Covered Services.
2. The Department will not charge the QCCC for its continuation under this Transfer Agreement of the payroll processing services that it currently provides for payment for covered Home Help Services.
3. The Department, via the fiscal year DCH/QCCC grant agreement, will provide funding to the QCCC, beginning with fiscal year 2006, for administrative services subject to the Legislative appropriations. The QCCC will not assume any functions

Transfer Agreement Between MDCH and MQCCC
Page 4 of 4

performed by the Department or other obligations specified in this Transfer Agreement where there are insufficient human resources to do so or where there has been a diminution of funding at the Federal or State level leaving the Department and/or the QCCC unable to render provider payments or other services.

VII. Term of Agreement

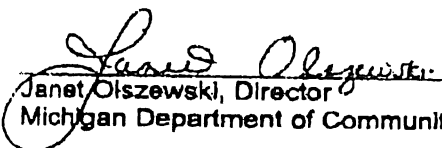
While the policy delineated in HCEP Bulletin 04-07 is effective December 23rd, 2004, actual implementation will occur as soon after that date that this Transfer Agreement is signed by all parties. This agreement shall be in effect on the latter of the dates signed by the parties and will continue until September 30th, 2005, or earlier after which time this Agreement shall continue to remain in effect and automatically renew every year. Either party may cancel this Agreement at any time, according to the conditions contained in the Interlocal Agreement. In the event that neither party terminates this Agreement within 90 days from the end of the term of the Agreement, the Agreement shall automatically renew every year.

X. Signatures



John Hoyts, Chair
Michigan Quality Community Care Council

12/21/04
Date



Janet Olszewski, Director
Michigan Department of Community Health

12-21-04
Date