

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK  
SUPERIOR COURT  
DOCKET NO. 1884CV00129

Jean Maas, Plaintiff

V.

Marylou Sudders Secretary of Exec Office of  
Health and Humans Services, and

Kim Larkin Dir of the Board of Hearings of the  
Office of Medicaid,  
Defendants

**AFFIDAVIT OF MARK W.  
WORTHINGTON**

I, Mark W. Worthington, state as follows:

1. My name is Mark W. Worthington. I am an attorney admitted to the practice of law in Massachusetts. My Board of Bar Overseers number is 560172. I have personal knowledge of the matters set forth herein.

2. My practice has been exclusively devoted to elder law, special needs law, and estate planning since 1994. In addition to my JD from Northeastern University School of Law, I have an LLM in tax from Boston University School of Law. I am certified as an Elder Law Attorney by the National Elder Law Foundation, the only elder law certification accredited by the American Bar Association. I have been actively involved in the Massachusetts Chapter of the National Academy of Elder Law Attorneys for over 20 years, serving as its president in 2007, and in that capacity have come to know many elder law and special needs practitioners. I am now a full time Professor at Western New England University School of Law and Director of its Graduate Program in Elder Law and Estate Planning, which since 2005 has awarded the LL.M.

degree. Among other courses, I teach the Graduate Program's full semester course on Medicaid law.

3. To the best of my recollection, knowledge, and belief from over 20 years of practice in elder law, in every instance where my client received a denial of MassHealth benefits (other than perfunctory required appeals for an Increased Community Spouse Resource Allowance), the notice of denial was vague and did not give specific reasons for the denial. The most common reason given was "excess resources" but no indication of what the particular resource was nor why that particular resource was deemed countable that was even close to sufficient to craft a response.

4. To the best of my recollection, knowledge, and belief from over 20 years of practice in elder law, in every instance where my client appealed the denial of MassHealth benefits to the MassHealth Board of Hearings (other than perfunctory required appeals for an Increased Community Spouse Resource Allowance), neither my client nor I were made aware of the reasons for MassHealth's denial until the Fair Hearing itself, at which time we were first presented with a memorandum from the EOHHS's legal department containing said reasons. This is true whether or not we requested that such reasons be provided to us prior to the Fair Hearing.

5. To the best of my knowledge and belief, based on my broad familiarity with the elder law bar in Massachusetts, my experience described at Items 3 and 4 above is the common, if not universal, experience of all elder law attorneys in Massachusetts.

Signed under the pains and penalties of perjury this 18<sup>th</sup> day of January, 2018.



Mark W. Worthington

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

On this 18<sup>th</sup> day of January, 2018, before me, the undersigned notary public, personally appeared **Mark W. Worthington**, proved to me through satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed on this Affidavit, and who swore or affirmed to me that the contents of this Affidavit are truthful and accurate to the best of his knowledge and belief.



Notary Public

