

Docket No. HHD CV 16-6073014-S	:	SUPERIOR COURT
	:	
COMPANIONS AND HOMEMAKERS, INC., et al.	:	JUDICIAL DISTRICT OF
<i>Plaintiffs</i>	:	HARTFORD
	:	
V.	:	
	:	
STATE OF CONNECTICUT, DEPARTMENT OF	:	
SOCIAL SERVICES	:	
<i>Defendant</i>	:	JANUARY 23, 2017

**STIPULATED JUDGMENT**

This Stipulated Judgment is entered into by and between Companions and Homemakers, Inc., Caring Solutions LLC, M.R. Home Care, Inc., Quality Home Care LLC, A&B Employer Solutions, LLC and Angel Touch Care, LLC (collectively referred to as the "plaintiffs"), and the defendant, the Connecticut Department of Social Services.

**WHEREAS:**

A. Electronic Visit Verification System (EVV) is a telephonic and computer-based in-home scheduling, tracking and billing system that plaintiffs as providers in the Connecticut Home Care Program for the Elderly (CHCPE) are required to use commencing January 1, 2017.

B. On November 16, 2016, the plaintiffs commenced this action against the defendant seeking the Court to issue declaratory relief that requiring providers to use EVV is a regulation that must be promulgated by the defendant in accordance with the Uniform Administrative Procedure Act (UAPA) and a temporary and permanent injunction prohibiting the implementation of EVV until a final hearing is held or the validity of the regulation was determined.

C. After having received briefs and hearing oral argument by the plaintiffs and defendant (hereinafter the plaintiffs and the defendant are collectively referred to as "the parties"), the Court, *Moukawsher, J.*, issued a Memorandum of Decision Denying Prejudgment

Remedy dated December 15, 2016, concluding that under Conn. Gen. Stat. § 17b-342(j), the defendant did not have to adopt a regulation under the UAPA before implementing EVV. Accordingly, the Court denied the plaintiffs request for injunctive relief. The Court denied the defendant's motion to dismiss as moot since the Court's decision concluded the claim at issue in this matter. The Court indicated that the parties could move for judgment on this claim or stipulate that judgment may enter. Plaintiffs have filed an appeal of the Court's decision.

D. After the Court issued its decision, the defendant filed a motion for judgment and the plaintiffs filed a motion for reconsideration and/or articulation, a motion for stay and an objection to the motion for judgment. The defendant filed objections to the motion for reconsideration and/or articulation and the motion for stay. The Court heard oral argument on all of the motions and the motions remain pending for Court ruling.

E. On December 29, 2016, plaintiff Companions and Homemakers Inc. (C&H) notified the defendant in writing that it would not utilize EVV until its concerns with EVV were resolved. On January 3, 2017, the defendant provided written notice to C&H that its Medicaid provider agreement would be terminated effective February 3, 2017.

F. The parties are desirous of settling the above-referenced action now pending between them.

G. The parties agree that settlement of the issues raised in the above-referenced action would best serve the interests of the parties.

H. The parties, with the advice and representation of their legal counsel, have consented to and do hereby consent to this Stipulated Judgment and agree to be bound thereby.

I. The parties have acknowledged, and by their consent hereto, do hereby acknowledge that they consent to this Stipulated Judgment as their free act and deed, without coercion or duress.

**NOW THEREFORE**, the parties agree that judgment shall enter in accordance with this Stipulated Judgment.

**IT IS HEREBY AGREED, ORDERED, ADJUCIATED AND DECREED AS FOLLOWS:**

1. The termination of the plaintiff C&H provider agreement on February 3, 2017 is rescinded.
2. In accordance with applicable state law and regulations, the plaintiffs' provider agreements with DSS, and DSS provider manual(s) and bulletins, the plaintiff C&H will fully utilize EVV on or before April 2, 2017 and the remaining named plaintiffs will continue to utilize EVV.
3. Until such time as plaintiff C&H begins utilizing EVV, the plaintiff C&H shall submit all claims for payment under CHCPE in paper form to Hewlett Packard Enterprise unless the parties agree to an alternative method.
4. The plaintiff C&H shall notify DSS in writing no later than March 2, 2017 whether it will be unable to comply with the terms in paragraph 2 above for any reason. If plaintiff C&H provides said notice, it will immediately comply with the requirement of paragraph 6 below.
5. If the plaintiff C&H does not utilize EVV as required by paragraph 2 above or notifies DSS that it will be unable to do so, the plaintiff C&H's provider agreement is terminated effective April 2, 2017 without further written notice from the defendant.

6. If and when either the plaintiff C&H provides the notice set forth in paragraph 4 above or plaintiff C&H's provider agreement is terminated under paragraph 5 above, the plaintiff C&H agrees and stipulates that it will assist in, and will not hinder, impede or obstruct, the transition and transfer of its CHCPE clients to other providers who participate in the CHCPE program. The plaintiff C&H agrees that it will facilitate and not hinder, impede or obstruct efforts of the Access Agencies in arranging for the client transfers. Plaintiff C&H agrees that the foregoing obligations include a prohibition of threatening or filing actions against either Access agencies or other providers in the CHCPE program on the basis of alleged actions that interfere with covenants not to compete executed by its employees who provide services to Medicaid employees to the benefit of plaintiff C&H. Notwithstanding the foregoing, plaintiff C&H retains the right to pursue enforcement of said covenants not to compete against its employees. Nothing herein shall constitute the agreement of either the Court or DSS as to the legality of said covenants not to compete.

7. Upon execution by all parties of this Stipulated Judgment, the defendant agrees and stipulates that it will notify Access Agencies that the February 3, 2017 termination of C&H is rescinded.

8. Upon entry into this Stipulated Judgment by the parties, plaintiffs shall immediately withdraw its appeal in the matter of *Companion and Homemakers, Inc. et al. v. State of Connecticut, Department of Social Services*, AC 39930.

9. Upon entry into this Stipulated Judgment by the parties, the plaintiff C&H shall immediately withdraw with prejudice its action in the matter of *Companions and Homemakers, Inc. v. State of Connecticut, Department of Social Services*, Superior Court, Hartford Judicial District, Docket No. HHD-CV-16-6069291-S.

10. The plaintiffs and the defendant will issue an agreed upon joint press release regarding the settlement of this matter.

11. The parties will each bear their own costs, fees and expenses, if any including but not limited to attorney fees.

12. The parties agree that this Stipulation may be entered as an Order of the Court in the above captioned matter as a final binding judgment resolving all of the claims and defenses asserted by the parties in the above captioned case.

13. This Stipulated Judgment shall be effective upon its entry as an Order by the Court.

14. This Stipulated Judgment shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, and all parties have contributed substantially and materially to the preparation of this Settlement Agreement.


15. Nothing in this Stipulation Judgment shall limit or affect (a) the rights and remedies otherwise available to the defendant regarding any future statutory, regulatory or provider agreement violations by the plaintiffs concerning their participation in CHCPE and (b) the right of the defendant to terminate any plaintiff's provider agreement in accordance with its provisions and applicable law except for the failure of plaintiff C&H to utilize the EVV system as set forth in paragraph E on page 2 above .

16. Subject to the provisions of paragraph 15 above, the parties agree that this Stipulation resolves any and all actions, claims, and liabilities, of any kind whatsoever, known or unknown, in contract or in tort, at law or in equity that the parties had, now have, or hereinafter may have against each other arising from the implementation and use of EVV by the plaintiffs

and the termination of the plaintiff C&H's provider agreement on January 3, 2017 by the defendant or future termination of the plaintiff's provider agreement as may be permitted under paragraph 5 of this Stipulated Judgment. Notwithstanding the foregoing, in the event that DSS makes major substantial changes in the EVV operating policies, plaintiffs reserve the legal remedies and rights available to plaintiffs to respond to such changes.


FOR THE PLAINTIFFS COMPANIONS  
AND HOMEMAKERS, INC., CARING  
SOLUTIONS LLC, M.R. HOME CARE,  
INC., QUALITY HOME CARE LLC, A&B  
HOMECARE SOLUTIONS, LLC, AND  
ANGEL TOUCH CARE, LLC

Date: 1/25/2017

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FOR THE DEFENDANT  
CONNECTICUT DEPARTMENT OF  
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Date: 1/24/17

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