



NH-MD-001-003

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(SOUTHERN DIVISION)

UNITED STATES OF AMERICA, :

Plaintiff, :

v. : Civil Action No.

GREENBELT NURSING & :
REHABILITATION :
CENTER :

and :

NORTHERN HEALTH :
FACILITIES, INC. :

and :

EXTENDICARE HEALTH :
SERVICES, INC. :

and :

EXTENDICARE HOLDINGS, INC. :

and :

EXTENDICARE HEALTH FACILITIES, :
INC. :

and :

EXTENDICARE HEALTH FACILITIES :
HOLDING, INC. :

Defendants. :

MOTION FOR PRELIMINARY INJUNCTIVE RELIEF

Plaintiff, United States of America, by its undersigned counsel, hereby moves pursuant to Federal Rule of Civil Procedure 65 for preliminary and permanent injunctive relief and for cause alleges:

1. The United States has filed a Complaint under the False Claims Act, 31 U.S.C. 3729, seeking injunctive relief and damages in connection with an investigation of alleged federal law violations by the above-named Defendants, Greenbelt Nursing & Rehabilitation Center, et al., ("Greenbelt") in rendering standard nursing home care. The United States alleges that Greenbelt has engaged in systemic denial of care, including but not limited to: adequate medical care, use of psychotropic and anti-depressant medications, failure to provide minimum standards of care guaranteed by law, and the submission of claims for payment by the United States, which falsely represent that the services are rendered in compliance with the law.

2. Since January 1998, the Maryland Licensing and Certification Administration ("MDLC") and the Health Care Financing Administration (HCFA), the State and federal regulatory agencies responsible for providing oversight of long term care facilities such as Greenbelt, have invoked successive administrative remedies in response to findings of substandard care at Greenbelt. Both MDLC and HCFA advised Greenbelt that failure to come into compliance with program participation requirements would result in termination of funding from the Medicare and Medicaid programs. On July 24, 1998, Greenbelt certified compliance with program requirements and represented

that it had corrected deficiencies involving substandard care. Based upon Greenbelt's certification of compliance and representations, MDLC and HCFA accepted the certification of compliance and Greenbelt was not terminated from federal or State program funding.

3. After the July 1998 certification of compliance, the U.S. Attorney's Office and the Office of Inspector General for the Department of Health & Human Services continued an investigation of federal law violations. On August 17, 1998, the Office of Inspector General served a subpoena on Greenbelt and invoked its inspection authority. At the request of the U.S. Attorney's Office, and consistent with statutory authority under federal and State law, state surveyors with the MDLC conducted an interim site visit and a HCFA surveyor participated in a monitoring capacity. The August 17, 1998 site visit at Greenbelt revealed evidence that Greenbelt was not in compliance with program requirements as represented in July 1998 and there continue to exist serious care deficiencies most particularly involving failure to render or ensure adequate medical care. The government believes that injunctive relief is urgently required to ensure that the residents are receiving basic care guaranteed by law.

4. On or about September 8, 1998, representatives from the U.S. Attorney's Office, Office of Inspector General and the MDLC met with Greenbelt corporate representatives and counsel. The government explained the status of its investigation and its intent to seek injunctive relief by the filing of an action in U.S. District Court. As a result of extensive and cooperative discussions between the parties,

Greenbelt and the government have reached mutual agreement on the terms of preliminary injunctive relief, without admission or waiver of any rights that may be asserted in this proceeding and without the necessity of a contested injunction hearing. The proposed preliminary injunction is thereby submitted herein for the Court's consideration and approval. The injunctive terms provide for significant protection of Greenbelt residents well beyond minimum legal requirements, including the appointment of a temporary manager of the facility, the appointment of an independent monitor and the hiring of a certified nurse practitioner. If appropriate, the parties respectfully request the opportunity to meet with the Court to discuss the preliminary injunction and the status of this action. The United States requests permission to withhold issuance of summons in this action at this time.

WHEREFORE, the United States of America pray that this Honorable Court:

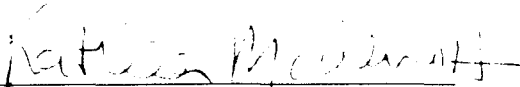
- A. Grant its Motion for Preliminary Injunctive Relief;
- B. Enter the proposed Preliminary Injunctive Order submitted for approval by the

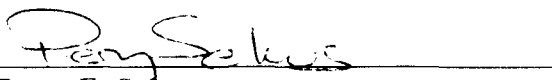
Parties;

- C. Award such other and further relief as the nature of its cause may require.

Respectfully submitted.

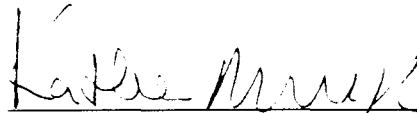
Lynne A. Battaglia
United States Attorney

By: 
Kathleen McDermott
Assistant United States Attorney
(410) 209-4813


Perry F. Sekus
Assistant United States Attorney
6625 United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201-2692
(410)209-4813

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September 1998, a copy of the foregoing Motion for Preliminary Injunctive Relief was mailed first class, postage prepaid, to Jefferson M. Gray and Howard L. Sollins, Ober, Kaler, Grimes and Shriver, A Professional Corporation, 120 East Baltimore Street, Baltimore, Maryland 21202-1643, counsels for the Plaintiff..



Kathleen McDermott

Perry F. Sekus

Assistant United States Attorneys