

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Barbara Hickey,)	
)	
Plaintiff,)	Docket No. 4:10-2696-TWL-TER
v.)	
)	
Emma Forkner , In Her Official Capacity as the Director of the South Carolina Department of Health and Human Services; and Beverly Buscemi , in Her Official Capacity as the Director of the South Carolina Department of Disabilities and Special Needs,)	JOINT MOTION FOR CONSENT ORDER TO MAINTAIN SERVICES <i>PENDENTE LITE</i>
)	
Defendants.)	
)	

On March 31, 2011, pursuant to Local Rule 7.02, Emily Jackson Miller, counsel for Plaintiff in this action contacted Kenneth Woodington, counsel for Defendants to attempt to resolve the issue of maintaining Plaintiff’s Medicaid services *pendente lite* by agreement in lieu of a contemplated motion for preliminary injunction. *See Peter B. v. Sanford*, 6:10-cv-767-JMC, 2011 U.S. Dist. LEXIS 22790 at *12 (D.S.C. March 7, 2011) (granting preliminary injunction requiring SCDHHS to maintain services, including PC II services, to Plaintiffs of the same quality, kind and volume as provided prior to January 1, 2010).

Plaintiff’s services have not yet been reduced because of the pendency of a challenge in the state administrative process raising various procedural issues in connection with the reductions. However, that challenge will probably be resolved by the state Administrative Law Court in the near future. For purposes of the instant case, the parties have reached agreement and now jointly move for entry of a Consent Order to maintain Plaintiff’s Medicaid services at issue at no less than the same quality, kind and volume during the pendency of this litigation.

This agreement in no way precludes either party from raising any issue at trial or in dispositive motions. Neither party waives any claims or defenses in this matter. This Consent Order shall not be deemed to establish a right of plaintiff to attorneys' fees related to the obtaining of this Consent Order.

Wherefore, the parties respectfully request that this Court issue an Order that Plaintiff's Medicaid services at issue in this case, to wit: fifty (50) hours of Personal Care II ("PC II") services per week as currently being provided, shall not be reduced during the pendency of this action.¹

RESPECTFULLY SUBMITTED,

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¹ Pursuant to Local Rule 7.04, this Motion is being submitted without an accompanying Memorandum. The parties have prepared a proposed Order and upon direction from the Court, the parties shall submit said proposed Order to chambers.

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Dated: 05/03/2011