

NYSCEF DOC. NO. 54

RECEIVED NYSCEF: 01/27/2025

*Hon Jerome C. Murphy, J.S.C.*SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAUCARING PROFESSIONALS, INC. and CONSUMER  
DIRECTED PERSONAL ASSISTANCE  
ASSOCIATION OF NEW YORK STATE,*Plaintiffs,*

v.

NEW YORK STATE DEPARTMENT OF HEALTH,  
JAMES V. MCDONALD, in his official capacity as  
Commissioner of the New York State Department of  
Health, MICHAEL LEWANDOWSKI, in his official  
capacity as a representative of the New York State  
Department of Health's Office of Health Insurance  
Programs, and PUBLIC PARTNERSHIPS LLC,*Defendants.*At IAS Part 2 of the  
Supreme Court of the  
State of New York held in  
and for the County of  
Nassau at the Courthouse  
located at 100 Supreme  
Court Drive, Mineola, New  
York on the 27<sup>th</sup> day of  
January, 2025

ORDER TO SHOW CAUSE

Index No. 601181/2025

MOTION SEQUENCE # 1

ORIGINAL RET. DATE \_\_\_\_\_

RELIEF OTRO

NOW, UPON reading the annexed First Amended Verified Complaint (NYSCEF Dkt. No. 21) and the exhibits annexed thereto (NYSCEF Dkt. Nos. 21-36), the attorney affirmations of Edward C. Wipper, executed January 21, 2025, and Bryan O'Malley, executed January 21, 2025, and the exhibits thereto, and the accompanying Memorandum of Law, and all prior proceedings had herein,

LET Defendants New York State Department of Health ("DOH"), James V. McDonald ("McDonald"), in his official capacity as Commissioner of the New York State Department of Health, Michael Lewandowski, in his official capacity as a representative of the New York State Department of Health's Office of Health Insurance Programs ("Lewandowski" and, together with DOH and McDonald, the "DOH Defendants"), and Public Partnerships LLC ("PPL") (collectively, "Defendants") appear and show cause before the Hon. Jerome C. Murphy, J.S.C., at the Nassau County Supreme Court Courthouse, 100 Supreme Court Drive, Mineola, New York 11501, Room Part 5 on March 4, 2025, at 9<sup>30</sup> a.m./p.m., or as soon thereafter as counsel can be heard, why an Order should not be entered:

- (1) Preliminarily restraining and enjoining DOH Defendants from enforcing the directives of that certain DOH Memorandum, dated December 6, 2024 (the "DOH Memorandum"), and seeking compel Plaintiff Caring Professionals, Inc. ("Caring Professionals") and the Member Financial Intermediaries of Plaintiff Consumer Directed Personal Assistants Association of New York ("CDAANY") to convey any data, records, or notifications as required by the DOH Memorandum, during the pendency of this lawsuit;
- (2) Alternatively, staying any deadline in the DOH Memorandum until and unless such time as all Defendants can demonstrate procedural safeguards in place to protect the confidential, proprietary data and alleviate any concerns of violation of the Health Insurance Portability and Accountability Act ("HIPAA"), NY GBL § 399-ddd, and any other applicable statute or regulation;
- (3) Preliminarily restraining and enjoining DOH Defendants from seeking to terminate or exclude Caring Professionals or any Member Financial Intermediary of CDPAANYS from the Medicaid Program or taking any other adverse action against Caring Professionals or any Member Financial Intermediary of CDPAANYS as a consequence of failing to abide by the DOH Memorandum, including any action described in that certain DOH Update, dated December 23, 2024 ("DOH Update"); and
- (4) For such other and further relief as the Court deems just and proper.

**SUFFICIENT CAUSE BEING ALLEGED IT IS HEREBY ORDERED** that pending the hearing of the relief sought in this order to show cause:

DOH Defendants are restrained and enjoined from taking any adverse action or issuing sanctions or penalties against Caring Professionals or any Member Financial Intermediary of CDPAANYS in connection with any failure to adhere to the January 15, 2025 deadline contained in the DOH Memorandum, including, but not limited to, efforts to have Caring Professionals and or any Member Financial Intermediary of CDPAANYS expelled and/or terminated from the Medicaid Program.

LET service of a copy of this Order and the supporting documentation upon which it is

predicated, made in accordance with CPLR 2103, on or before Feb 18 Today, 2025 ~~2025~~ and *and service is accepted on the record* deemed good and sufficient service; and

LET answering papers, if any, be e-filed so as to be received by counsel for Plaintiffs on or before Feb 18, 2025 and reply papers, if any, be filed so as to be received by counsel for Plaintiffs, on or before March 4, 2025.

*The Court requires hard copies of all papers.*

*Jerome C Murphy*  
J.S.C.

HON. JEROME C. MURPHY

**ENTERED**

**Jan 28 2025**

NASSAU COUNTY  
COUNTY CLERK'S OFFICE