

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA DEPARTMENT OF HUMAN SERVICES,

Plaintiff,

v.

MORSE HEALTHCARE SERVICES, INC. d/b/a FAITH RIDGE LIFE CENTER, MORSE ENTERPRISES, INC. d/b/a KEVINGTON LANE, MANOR OF MALVERN, INC., KEVINGTON LANE, INC., and MARY MORSE-BOLTON,

Defendants.

No. _____

**PETITION FOR RELIEF UNDER
IOWA CODE § 249A.44 (SUPP. 2013)**

**[EXPEDITED HEARING
REQUESTED]**

COMES NOW Plaintiff Iowa Department of Human Services, Iowa Medicaid Enterprise, and states to the Court as follows:

PARTIES

1. Plaintiff Iowa Department of Human Services (“the Department”) is the state agency that administers the Iowa Medicaid program under Iowa Code chapter 249A and various federal and state laws and regulations. Medicaid is a cooperative partnership between the United States of America and the states. The states care for society’s most vulnerable individuals, and the United States of America pays the majority of the states’ costs of doing so.

2. Defendant Mary Morse-Bolton (“Morse-Bolton”) owns and operates Defendants Morse Healthcare Services, Inc. d/b/a Faith Ridge Life Center (“Faith

Ridge”), as well as Morse Enterprises, Inc. d/b/a Kevington Lane and Kevington Lane, Inc. (collectively, “Kevington Lane”). Faith Ridge and Kevington Lane are enrolled with the Iowa Medicaid program to provide healthcare services to Iowa Medicaid members and have signed contracts known as “provider agreements” with the Department.

3. Faith Ridge operates a 51-bed nursing facility in Malvern, Iowa, and provides services to Iowa Medicaid members. Defendant Manor of Malvern, Inc. owns the Faith Ridge facility, in which Iowa Medicaid members live.

4. Kevington Lane owns and operates a 21-bed residential care facility in Sidney, Iowa. Kevington Lane furnishes Home and Community Based Services (“HCBS”) to Iowa Medicaid members, pursuant to a so-called “waiver” agreement between the United States of America and the State of Iowa under 42 U.S.C § 1396n.

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction over this action. Pursuant to Iowa Code section 249A.44 (Supp. 2013), the Department is expressly authorized to bring an action seeking injunctive relief, appointment of a receiver, and disclosure of Defendants’ property and liabilities.

6. Defendants Manor of Malvern, Inc., Morse Healthcare Services, Inc., Morse Enterprises, Inc., and Kevington Lane, Inc. are Iowa corporations. Defendant Mary Morse-Bolton is President, registered agent and sole shareholder of Defendants Manor of Malvern, Inc., Morse Enterprises, Inc., Morse Healthcare Services, Inc. and Kevington Lane, Inc.

7. Venue is proper in the Iowa District Court for Polk County, pursuant to Iowa Code section 249A.44(6).

FACTS

Concurrent Sanctions, Withholding of Payments, and Civil Proceedings

8. Faith Ridge, as a nursing facility, is required to calculate and pay a broad based healthcare tax known as a Quality Assurance Assessment Fee (“QAAF”) to the Department on a quarterly basis. *See* Iowa Code § 249L.3; Iowa Admin. Code 441 § 36.7. Until recently, Faith Ridge failed to calculate or pay its QAAF for eight quarters, resulting in an estimated outstanding debt of \$287,000.00. The Department and Defendant Mary Morse-Bolton met on two occasions to address the overdue QAAF, and Ms. Morse-Bolton assured the Department the QAAF would be paid in full by a deadline of November 22, 2013. Ms. Morse-Bolton paid \$50,000.00 on November 25, 2013, and promised an additional \$50,000 within 7-10 days, but never made any additional payments.

9. On or about November 27, 2013, IME began to recoup the estimated remaining balance of \$237,000 in unpaid QAAF from Faith Ridge’s ongoing Medicaid claims. The Department anticipates that recoupment of these funds will result in Medicaid not paying Faith Ridge any funds until approximately February 2014. Faith Ridge is heavily dependent on income from the Department to remain in business and provide necessary care to the residents of the facility.

10. On April 29, 2013, the Department administratively sanctioned Faith Ridge and Kevington Lane with a term of probation, pursuant to 441 Iowa Admin. Code chapter

79, due to their ongoing failures to provide necessary financial information and failures to correct deficiencies within HCBS programs.

11. Faith Ridge and Kevington Lane appealed the Department's sanction of probation and initiated contested case proceedings under Iowa Code chapter 17A. On September 4, 2013, however, the Department, Faith Ridge, and Kevington Lane entered into a settlement agreement. Pursuant to this settlement, Faith Ridge and Kevington Lane consented to a sanction of probation and agreed to retain an independent third-party management firm to oversee finances and delivery of all health care services during the term of the probation.

12. Faith Ridge and Kevington Lane proposed, and the Department did not object to, a firm named Klassmeyer and Associates ("the Klassmeyer firm") as the independent third-party management firm. The Klassmeyer firm commenced work as the third-party management firm in July 2013.

13. On or about November 27, 2013 the Klassmeyer firm ceased acting as the management company, bringing Faith Ridge and Kevington into breach of the settlement agreement. The Department gave the Faith Ridge and Kevington Lane until December 12, 2013, to identify a new management company pursuant to the terms of the settlement agreement, but they did not do so. Upon information and belief, Morse-Bolton is presently operating Faith Ridge and Kevington Lane.

14. Kevington Lane and Mary Morse Bolton also each jointly and severally owe the Department \$165,315.30, an identified overpayment of Iowa Medicaid funds. On October 28, 2013, the Department filed a Confession of Judgment evidencing this

joint and several debt. The Confession of Judgment is filed in Fremont County District Court, Case No. CVCV 024904.

COUNT I:

INJUNCTION UNDER IOWA CODE SECTION 249A.44(1)

15. Paragraphs 1-14 above are incorporated herein by reference.
16. Plaintiff is withholding payment to Faith Ridge, has sanctioned Faith Ridge and Kevington Lane, and filed a civil action against Kevington Lane and Morse-Bolton.
17. Plaintiff requires an injunction to prevent Defendants from transferring property or otherwise taking action to protect the Defendants' businesses inconsistent with the recoveries sought in these matters, pursuant to Iowa Code section 249A.44(1).
18. An injunction may be allowed in any case specifically authorized by statute, and a statutory right of recovery supersedes any requirements of common law for obtaining an injunction. Iowa Code § 249A.44(2); Iowa R. Civ. P. 1.1502(3); *State ex. Re. Turner v. Limbrecht*, 246 N.W.2d 330, 334 (Iowa 1976); *United States v. Beatty*, 88 F. Supp. 646, 652 (S.D.IA 1950).
19. No petition for the same relief, or part thereof, has been previously presented to and refused by any court or justice. Iowa R. Civ. P. 1.1504.
20. In an action by the state, no security shall be required of the state. Iowa R. Civ. P. 1.1508, 1.207.

COUNT II:

APPOINTMENT OF A RECIEVER UNDER IOWA CODE SECTION 249A.44(3)

21. Paragraphs 1-20 above are incorporated herein by reference.

22. When an injunction is granted in this matter, the Plaintiff is entitled to appointment of a receiver to protect the property and business of Defendants, pursuant to Iowa Code section 249A.44(3).

23. The cost of the receiver should be assigned to Defendants pursuant to Iowa Code section 249A.44(3).

COUNT III:

DISCLOSURE OF PROPERTY AND LIABILITIES UNDER IOWA CODE

SECTION 249A.44(5)

24. Paragraphs 1-23 above are incorporated herein by reference.

25. The Department is entitled to a full disclosure of all property and liabilities of Defendants pursuant to Iowa Code section 249A.44(5).

PRAYER

26. Plaintiff prays for the following relief:

- a. Pursuant to Iowa Code section 249A.44(1), an injunction restraining Defendants from transferring property or otherwise taking action to protect Defendants' business inconsistent with the recovery sought;

- b. Pursuant to Iowa Code section 249A.44(3), appointment of a receiver to protect the property and business of Defendants, with the cost of the receiver assigned to Defendants;
- c. Pursuant to Iowa Code section 249A.44(5), an order requiring Defendants to fully disclose all property and liabilities to the Department; and
- d. Such additional relief as the Court deems just and equitable under the circumstances.

Respectfully submitted,

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