

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Peter B., Jimmy “Chip” E.,
and Michelle M.,

Plaintiffs,

v.

Marshall C. Sanford, Nikki Randhawa Haley,
Anthony Keck, Beverly Buscemi, Kelly Floyd,
Richard Huntress, the South Carolina Department
of Health and Human Services and the South
Carolina Dept. of Disabilities and Special
Needs,

Defendants.

Case No: 6-10-CV-767-TMC

AMENDED MOTION FOR
SUMMARY JUDGMENT

Plaintiffs file this amended motion for Summary Judgment, based on the grounds included in the attached memorandum of law. No consultation is required.

The issues are as follows:

- Issue 1. Have Defendants violated Plaintiffs’ Due Process and statutory rights to a fair hearing in violation of 42 U.S.C. §1983 by failing to provide the Plaintiffs with a fair hearing and a final decision within 90 days of the request for the fair hearing, and is this violation subject to repetition, yet it evades review?**
- Issue 2. Defendants have violated Plaintiffs’ rights under 42 U.S.C. §1983 and the Supremacy Clause of the United States Constitution by failing to provide services in the amount, duration and scope necessary to reasonably achieve the purpose of the MR/RD Medicaid waiver program and by failing to include reasonable standards for determining eligibility for and the extent of medical assistance.**
- Issue 3. Are Defendants prohibited by the South Carolina Administrative Procedures Act and collateral estoppel from enforcing reductions in MR/RD Medicaid services that are not promulgated as regulation?**

Issue 4. Are Defendants prohibited from reducing Plaintiffs services, and from denying future services, based on unpromulgated binding norms because their policies violate the Americans with Disabilities Act and the Rehabilitation Act?

Respectfully submitted,

s/ Patricia L. Harrison

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