

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Genesis Health Care, Inc.,)
)
 Petitioner,)
)
 Vs.)
)
 South Carolina Department of Health)
 And Human Services,)
)
 Respondent.)
 _____)

BEFORE THE DIVISION OF
 APPEALS AND HEARINGS
 SOUTH CAROLINA DEPARTMENT OF
 HEALTH AND HUMAN SERVICES

PRE-HEARING ORDER


Appeals' Case Numbers:
 11-MISC-048, 11-MISC-213,
 11-MISC-239, 11-MISC-249,
 11-MISC-275, 12-MISC-019,
 12-MISC-020, 12-MISC-021,
 12-MISC-022, 12-MISC-023

PURSUANT to authority granted by the South Carolina Code of Regulations, Chapter 126, Subarticle 3, Regulation 126-154, the Petitioner and Respondent are required to respond to this Order by the date(s) indicated. Failure to comply with the terms of this Order will constitute grounds for *dismissal*.

- 1) The Petitioner will supply a list of its witnesses scheduled to appear at the Fair Hearing on May 1, 2014 to the Respondent and this Hearing Officer by April 18, 2014.
- 2) The Petitioner's request to bring a stenographer to the Hearing is denied. An audio recording of the proceedings is made by the Hearing Officer at all Fair Hearings. This recording is the official record for any transcripts if an appeal is taken to a higher court.
- 3) The Petitioner's request to subpoena Director Tony Keck is denied.
- 4) The Petitioner's request to subpoena Jeff Saxon and Rebecca Clark seems unnecessary since both are scheduled to appear as witnesses for the Respondent. Counsel for Respondent shall guarantee their appearance in writing to this Hearing Officer and Petitioner by April 18, 2014. If the Respondent fails to do so, then the request will be granted and Subpoenas will be issued for Mr. Saxon and Ms. Clark.
- 5) Having received the briefs from both parties, the objections and arguments as to the issues to be decided will be heard at the Fair Hearing on May 1, 2014. If any issues are resolved prior to the Fair Hearing, both parties shall notify this Hearing Officer with a signed acknowledgment.

- 6) Counsels for Petitioner and Respondent shall exchange and mark exhibits for admission into the record. A list of exhibits agreed upon by both sides along with a list of exhibits where an objection will be raised shall be provided to this Hearing Officer by both parties by April 25, 2014. The objections and arguments as to the admissibility of any exhibits will be heard at the Fair Hearing on May 1, 2014.

AND IT IS SO ORDERED.



Thomas R. Smith, Esq.
Hearing Officer
Division of Appeals and Hearings

DATED at Columbia, South Carolina

April 11th, 2014

April 23, 2014

TO: Tony Megna, Attorney for Petitioner, Genesis
Rick Hepfer, Attorney for Respondent, SCDHHS


FROM: Thomas R. Smith, Hearing Officer

RE: Genesis Health Care, Inc. v. SCDHHS
Appeals' Case #'s: 11-MISC-048, 11-MISC-213, 11-MISC-239, 11-MISC-249,
11-MISC-275, 12-MISC-019, 12-MISC-020, 12-MISC-021, 12-MISC-022,
12-MISC-023

Gentlemen:

In regard to recent e-mails received from both parties, I wanted to make it clear that the Fair Hearing for the above noted appeals will be held on May 1, 2014 at 9:30 a.m. as scheduled. I find no compelling or persuasive reason for a stay or continuance or further delay of the proceedings. Furthermore, I make the following rulings:

- 1) Mr. Hepfer's request to delay the hearing until the week of May 19th as well as Mr. Megna's request for a continuance due to the unavailability of Rebecca Clark is denied.
- 2) Mr. Megna's request to stay the proceedings is denied.
- 3) The witnesses scheduled to appear for the Respondent on May 1, 2014 are Jeff Saxon, Debbie Strait, and Val Williams. Their appearance is guaranteed by Mr. Hepfer. Witnesses shall remain in their offices until called to testify.
- 4) The witness, Val Williams, shall make herself available for a telephone interview by Mr. Megna on or before April 29, 2014. The interview shall not last more than one hour.
- 5) Witness Rebecca Clark will be heard in a second hearing on the week of May 19, 2014, if needed. A mutually agreed upon time and date shall be decided at the May 1, 2014 Fair Hearing.
- 6) Mr. Megna has failed to submit his witness list timely. This list must be submitted by April 25, 2014 to this Hearing Officer and the Respondent. As a reminder, the list of exhibits agreed upon by both sides along with the list of exhibits where an objection will be raised is due from both parties by April 25, 2014.
- 7) Except for the provision annotated above for witness Rebecca Clark, the Pre-Hearing Order dated April 11, 2014 is still in effect.


Thomas R. Smith, Esq.

April 23, 2014
Date