

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

RISEDELAWARE INC., *et al.*,

Plaintiffs,

v.

SECRETARY CLAIRE DEMATTEIS in
her official capacity as Secretary of the
Delaware Department of Human
Resources and Co-Chair of the State
Employee Benefits Committee, *et al.*,

Defendants.

C.A. No. N22C-09-526-CLS

AFFIDAVIT OF DIANA BRUBAKER

STATE OF DELAWARE)

COUNTY OF NEW CASTLE)

I, Diana Brubaker, hereby depose and state as follows:

1. My husband, Roy Brubaker, and I are both retired from our jobs as teachers with the State of Delaware. My husband taught with the Christina School District for 34 years before retiring. He taught 8th grade science, which focused on chemistry and physics. He especially loved teaching chemistry with a hands-on approach with students working in groups on experiments in the lab rather than lecturing. He wanted the students to be actively involved, and they loved it.

2. I taught 8th grade language arts in Christina School District for 17 years, 2 years with Gifted education, and 5 years of Gifted Education in Appoquinimink School District. I too loved my job as a teacher and enjoyed that grade level, even

though most teachers try to avoid those middle years. As an English teacher, I felt it was important to be sure my students had a firm grasp of grammar, so I tried to fit that into the curriculum along with literature. After all, if I didn't teach it, who would? If they mastered it, that would be my greatest gift to them and would serve them well.

3. We always knew teaching was a calling and definitely not a lucrative profession. However, with the benefits from the State for health insurance, we felt we would be comfortable after retirement even though we would be on a fixed income. With the State's plan now to change our retirement health care benefits away from traditional Medicare, my husband and I believe we will no longer feel comfortable and we strongly object to the new Medicare Advantage Plan.

4. My husband has had diabetes since the age of 47. Last year at the age of 80, his kidneys began to fail. By this summer, at 81, they were only functioning at 9%, which was the beginning of home dialysis for him with all the instruction that it entailed for me as the care giver. I watched as a man who actively was playing golf and tennis in the spring of 2022 lose over 20 pounds. He lost his appetite, had little energy, slept a great deal as a result, and retained fluid so that shoes were difficult to wear. Golf and tennis were out of the question as it was even difficult to walk down the street, let alone around the neighborhood.

5. In late June, he had the necessary surgery for peritoneal dialysis, which uses the peritoneal membrane in the body to remove the toxins and excess fluid from the body by placing a catheter, a flexible hollow tube, in the lower abdomen. During dialysis, the abdominal cavity is filled with a dialysate solution which filters out toxins and fluids similar to osmosis and diffusion. This method of dialysis is recommended by medical professionals because not only is it done at home but is more comfortable to the patient than going to a center for hemodialysis. We received instruction for this peritoneal dialysis done either manually and/or with a cycler at the Metro Building near the Christiana hospital where Fresenius Kidney Care is located. This group of professionals is the best I have ever encountered; they are highly skilled and extremely compassionate.

6. Our present State Medicare insurance covered all costs including the surgery, lessons, daily supplies, equipment, and materials needed to do the dialysis including the cycler. (It was a difficult summer for us, but we NEVER had to worry about payment with our traditional Medicare.) Over the summer, I watched my husband come back to life again with the dialysis. His vitals were improving, his energy levels rose, his fluids are removed daily, and he is gradually returning to former activities.

7. This will not be the case with Medicare Advantage. My husband will not be accepted with this pre-existing condition. I have become aware that the

Highmark contract publicly posted just a few days ago, in Article V, “Guaranteed Rate Cap and Premium Conditions,” states under “End stage renal disease - Group agrees not to enroll Members and their dependents who are Medicare beneficiaries diagnosed with End Stage Renal Disease...in the MA plan during the 30 month coordination period.” It does not apply to those who develop renal disease while under MA. Without coverage, does the state abandon my husband?? It’s obvious my husband’s future without it.

8. My husband has served the State well. Over the years, he has educated over 6,000 students and was extremely well-liked by students, faculty, and administrators. Jack Markell, a former student of his and Governor, honored my husband when he retired with a special plaque declaring June 6, 2000, Roy Brubaker Day in Delaware. Now when we need what we were promised, is the State taking back what it has already given???

9. Another item that concerns us is can we keep our present doctors? With Medicare Advantage, it states that “as long as they accept Medicare Advantage” we can keep them. Translated that means maybe not. Many of us will have to find new doctors at a time when we are more than ever attached to our doctors, since we see them more often as we age. In addition, doctors, unfortunately, under MA do not even have the final authority over tests and procedures but are scrutinized by insurers who are not even qualified to make such decisions, insurers

whose bottom line is saving money. What doctor would want to subscribe to that? Unable to make the best decisions for his/her patients? All of this is worrisome for the State worker who may not only lose his/her doctor but not even receive the necessary treatment. (Example: dialysis for my husband.) I do not understand how any of this benefits seniors who are now at the mercy of the State with these new changes. With our current Highmark MedicFill supplementing traditional Medicare, we needed no referrals. Doctors had the power to be doctors.

10. I am hoping that the Court will stop the implementation of this contract for a Medicare Advantage plan for at least a year and return to the traditional Medifill program so that all interested parties are able to discuss it. As former teachers, my husband and I are hardly independently wealthy. I am very afraid of what will happen to us with the State's change of our health care plan to Medicare Advantage. This could be financially devastating if we were to have to pay for my husband's care on our own.

11. I am over the age of eighteen (18) years and am competent to testify.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed this 3rd day of October, 2022.

Diana Brubaker
Diana Brubaker

SWORN TO AND ASCRIBED before me this 3rd day of October, 2022.

Donna Marie Baird
Notary Public

My commission expires: August 11, 2024

