

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARKETRIC HUNTER, a minor child, *
by and through his mother and legal *
guardian, THELMA LYNNAH, *
ZACHARY ROYAL, S.R., a minor *
child, by and through her father and *
natural guardian CHARLES REGNA, *
J.M., a minor child, by and through his *
grandmother and next friend MINNIE *
MANUAL, R.E., a minor child, by and *
through her mother and natural guardian *
MICHELLE EAVES, *

Plaintiffs, *

v. *

DAVID A. COOK, in his Official *
Capacity as Commissioner of the *
DEPARTMENT OF COMMUNITY *
HEALTH *

Defendant. *

CIVIL ACTION

1:08-CV-2930-TWT

OFFER OF JUDGMENT PURSUANT TO F.R.C.P. 68

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendant makes this Offer of Judgment. This offer is being made on behalf of and with the consent of Defendant in the above action. In the event that Plaintiffs accept this offer, Defendant shall be notified in writing within 14 days of receipt of this offer.

Plaintiffs shall be on notice that in the event this offer is not accepted and Plaintiffs receive a judgment which is equal to or less than the relief offered, they will be responsible for the costs and attorneys' fees incurred subsequent to the receipt of this offer. Plaintiffs are further notified that their attorneys' fees will be cut off from the date of this offer.

This Offer of Judgment includes:

(1) [REDACTED]

(2) Defendant shall approve and Plaintiff S.R. shall receive sixty (60) hours of skilled nursing services per week for the next twelve (12) months through GAPP or any successor program thereto. At the conclusion of the twelve (12) month period, Defendant will conduct an assessment of S.R.'s medical condition as required by CMS. All future assessments of S.R. will be conducted on an annual basis;

(3) Defendant shall approve and Plaintiff J.M. shall receive seventy (70) hours of skilled nursing services per week for the next twelve (12) months through GAPP or any successor program thereto. At the conclusion of the twelve (12) month period, Defendant will conduct an assessment of J.M.'s medical condition as required by CMS. All future assessments of J.M. will be conducted on an annual basis;

(4) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(5) If, during the current twelve (12) month period or a future twelve (12) month period, Plaintiffs [REDACTED], S.R., J.M., or [REDACTED] experience a change in medical condition which necessitates additional skilled nursing hours, the review of a request for additional hours will be expedited through GAPP. The request for additional hours must be made through the web portal in order to be acted upon. The request will be acted upon and a response given within five (5) business days of receipt of a proper request;

- (6) Whenever there should be an increase in skilled nursing hours in response to a particular event, such as a surgical procedure, which necessitates a temporary increase in nursing hours, such increase shall not be considered permanent;
- (7) The number of skilled nursing hours will not be reduced below that specified for each Plaintiff per week unless there is a significant improvement in the medical condition and the parents consent to the proposed reduction upon the conclusion of the Defendant's annual assessment;
- (8) The foregoing shall apply so long as each individual Plaintiff is Medicaid-eligible, is medically fragile with multi-system diagnoses requiring skilled nursing care, currently provided by GAPP, (as outlined in the Pediatric Nursing Facility Level of Care Criteria), and is under the age of twenty years, eleven months; and,

Defendant states that this Offer of Judgment does not admit any wrongdoing, guilt or responsibility on the part of Defendant, and the parties do not consent to its use in any further or other proceedings.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing OFFER OF JUDGMENT by United States Postal Service, first-class, postage prepaid, to the following:

Paula Rafferty, Esq.
Joshua H. Norris, Esq.
Georgia Advocacy Office
150 E. Ponce De Leon Ave.
Suite 430
Decatur, Georgia 30030

This 2nd day of July, 2013.

s/MICHELLE TOWNES
Georgia Bar No. 714924
Assistant Attorney General
Counsel for Defendant Cook