

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VANESSA SHEROD, AS  
ADMINISTRATOR OF THE ESTATE OF  
ELIZABETH WILES, AND IN HER OWN  
RIGHT,

Plaintiff,

v.

COMPREHENSIVE HEALTHCARE  
MANAGEMENT SERVICES, LLC d/b/a  
BRIGHTON REHABILITATION AND  
WELLNESS CENTER, COMPREHENSIVE  
MANAGEMENT SERVICES – PROPERTY,  
LLC, CHMS GROUP, LLC, SAMUEL  
HARPER, EPHRAM LAHASKY,  
HEALTHCARE SERVICES GROUP, INC.,  
HCSG LABOR SUPPLY, LLC, HCSG  
SUPPLY, INC., HCSG STAFF LEASING  
SOLUTIONS, LLC, QUALITY BUSINESS  
SOLUTIONS, INC., AND BRIAN EDWARD  
MEJIA,

Defendants.

Case No: 2:20-cv-01198-AJS

**DEFENDANT’S MOTION TO STAY  
REMAND**

Electronically Filed

**DEFENDANT’S MOTION TO STAY REMAND**

NOW COMES Defendant, Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center (“Defendant Brighton”) and submits the within Motion to Stay Remand, averring as follows:

1. On July 1, 2020, Plaintiff initiated this action by filing a Complaint in the Court of Common Pleas of Allegheny County in a matter styled Vanessa Sherod, as Administrator of the Estate of Elizabeth Wiles, and in her own right v. Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center, Comprehensive Management Services – Property, LLC, CHMS Group, LLC, Samuel Harper, Ephram Lahasky, Healthcare Services Group, Inc., HCSG Labor Supply, LLC, HCSG Supply, Inc., HCSG Staff Leasing Solutions, LLC, Quality Business Solutions, Inc., and Brian Edward Mejia, G.D. No. 20-007319.

2. On August 12, 2020, Defendant, Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center (“Defendant Brighton”) filed a Notice of Removal of this case to this Court, pursuant to the PREP Act, 42 U.S.C. 247d-6d and 42 U.S.C. 247d-6e, **and** the Federal Officer Removal statute, 28 U.S.C. § 1442(a)(1).

3. On September 9, 2020, Plaintiff filed a Motion to Remand this civil action back to state court, arguing that the presence of a federal defense under the PREP Act does not create a federal question that mandates removal. In addition, Plaintiff argued that complete preemption is not applicable under the PREP Act. Finally, Plaintiff argued that Defendant is not entitled to removal under 28 U.S.C. § 1442(a)(1).

4. On September 30, 2020, Defendant Brighton filed its Brief in Opposition to Plaintiff’s Motion to Remand, and set forth its detailed arguments that removal of this case to federal court is proper under the PREP Act, 42 U.S.C. 247d-6d and 42 U.S.C. 247d-6e, **and additionally, under the Federal Officer Removal statute, 28 U.S.C. § 1442(a)(1).**

5. On October 16, 2020, this Honorable Court filed a Memorandum Opinion and Order granting Plaintiff’s Motion to Remand. However, the Memorandum Opinion only addressed Defendant’s arguments for removal under the PREP Act, and did not address or issue a ruling on

Defendant's removal pursuant to the Federal Officer Removal statute, which provides an independent basis for federal jurisdiction.

6. Defendant intends to file a Motion for Reconsideration and/or Clarification, respectfully requesting that this Honorable Court rule on Defendant's removal under the Federal Officer Removal statute, 28 U.S.C. § 1442(a)(1). Defendant will also seek Reconsideration on the basis of newly published Health and Human Services guidance that supports Defendant's position that it was acting at the direction of federal officers.

7. Therefore, Defendant respectfully requests that this Honorable Court stay the Remand of this case to state court until Defendant has the opportunity to file a Motion for Reconsideration and/or Motion for Clarification. Defendant further respectfully requests that this Honorable Court allow Defendant until October 23, 2020 (seven (7) days from its October 16, 2020 Order), to file such Motions.

WHEREFORE, Moving Defendant, Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center, respectfully requests this Honorable Court grant the within Motion to Stay Remand.

Dated: October 16, 2020

**GORDON & REES LLP**

By: /s/ Erica Kelly Curren, Esq.

Andrew G. Kimball  
PA I.D. No. 46425  
Email: akimball@grsm.com

Erica Kelly Curren  
PA I.D. No. 318819  
Email: ecurren@grsm.com

**GORDON & REES LLP**

707 Grant Street

Suite 3800

Pittsburgh, PA 15219

Phone: (412) 577-7400

*Counsel for Defendant, Comprehensive  
Healthcare Management Services, LLC  
d/b/a Brighton Rehabilitation and Wellness  
Center*

**CERTIFICATE OF SERVICE**

I, Erica Kelly Curren, hereby certify that I electronically submitted the foregoing Motion to Stay Remand with the Clerk of the Court for the United States District Court for the Western District of Pennsylvania, using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of Electronic Filing” to the following individuals who, by rule, have consented to accept the Notice as service of this document by electronic means:

Robert J. Mongeluzzi, Esq.  
David L. Kwass, Esq.  
Elizabeth A. Bailey, Esq.  
**SALTZ MONGELUZZI  
& BENDESKY P.C.**  
One Liberty Place  
52nd Floor  
1650 Market Street  
Philadelphia, PA 19103  
(Counsel for Plaintiff)

Jennifer M. Swistak  
**CIPRIANI & WERNER P.C.**  
650 Washington Road  
Suite 700  
Pittsburgh, PA 15228  
(Counsel for Defendants, Healthcare Services Group, Inc., HCSG Labor Supply, LLC, HCSG Supply, Inc., HCSG Staff Leasing Solutions, LLC, Quality Business Solutions, Inc., and Brian Edward Mejia)

GORDON & REES LLP

By: /s/ Erica Kelly Curren, Esq. \_\_\_\_\_  
Erica Kelly Curren  
PA I.D. No. 318819

707 Grant Street, Suite 3800  
Pittsburgh, PA 15219  
Phone: (412) 577-7400  
Email: ecurren@grsm.com

*Counsel for Moving Defendant,  
Comprehensive Healthcare Management  
Services, LLC d/b/a Brighton Rehabilitation  
and Wellness Center*

*- and -*

*Counsel for Consenting Defendants,  
Sam Halper (incorrectly identified as  
Samuel Harper) and Ephram Lahasky*

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Defendants.

**ORDER OF COURT**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of Defendant's Motion to Stay Remand, it is hereby ORDERED that the remand of this case to state court is STAYED to allow Defendant Brighton the opportunity to file a Motion for Reconsideration and/or Motion for Clarification of this Honorable Court's Memorandum Opinion and Order dated October 16, 2020. Defendant's Motion for Reconsideration and/or Motion for Clarification will be due by Friday, October 23, 2020.

BY THE COURT:

\_\_\_\_\_, J.