

August 3, 2010

Chad McKenney, Esq.
Donohue McKenney Hendrikson &
Bergquist, Ltd.
11222 86th Avenue North
Maple Grove, MN 55369

Re: *In the Matter of the Denial of Children's Therapeutic Services and
Supports Certification for Helena Family Supports, Inc.*
OAH Docket No. 3-1800-21223-2

Dear Mr. McKenney:

I have received your request for a subpoena to require the production of documents from Mary Hayes of the Minnesota Board of Marriage and Family Therapy. You have stated that the purpose of seeking these documents is to explore whether DHS personnel filed a retaliatory complaint with the Board about the Respondent. The materials collected by a government entity as part of an active investigation undertaken for the purpose of the commencement of a civil legal action, or which are retained in anticipation of a pending civil legal action (which includes an administrative proceeding) are classified as protected nonpublic data under Minn. Stat. § 13.39, subd. 2. If this were a proceeding commenced by the Board of Marriage and Family Therapy, it would be appropriate to require the production of such documents pursuant to a Protective Order, so that the Respondent could prepare for hearing; however, this matter involves the denial of children's therapeutic services and supports certification by the DHS. I do not see that the information you are seeking is relevant to the issues identified in the Notice and Order for Hearing, and I consequently must deny the requested subpoena.

Sincerely,
s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge
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Cc: Cynthia B. Jahnke