

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the SIRS Appeal of
Harold Ostlund

PROTECTIVE ORDER

Pursuant to Minn. Stat. §§ 13.03, subd. 6, and 14.60, subd. 2, and Minn. R. 1400.6700, subp. 4, and based on a consideration of Harold Ostlund's (Appellant's) need for certain data that the Department of Human Services (Department) contends is classified as private and confidential, the Department's interest in maintaining the nonpublic classification of the data, and the privacy interests of the subjects of the data,

IT IS HEREBY ORDERED:

1. This Order is binding on the Department, the Appellant and counsel of record, employees assisting the parties in preparation of the case, witnesses subpoenaed or otherwise called to testify at hearing, and representatives of the parties to whom the not public data must be disclosed, in order to adequately prepare for hearing in this matter.

2. "Data subject to this Protective Order" means documents pertaining to this appeal that contain data classified as "not public" by Minnesota Statutes chapter 13 (Data Practices Act), specifically Minn. Stat. § 13.46, or other applicable law, and includes the contents of the Minnesota Department of Human Services case file; all documents and records that become a part of the record of the hearing, including any written post-hearing submissions allowed by the Administrative Law Judge; the transcript of the hearing; the recommended decision of the Administrative Law Judge; and the final decision of the Commissioner of Human Services. "Not public" data specifically includes but is not limited to the names and other identifying information of Appellant's patients/clients and other not public data on individuals maintained as part of the Department's audit investigation.

3. Any person bound by this Protective Order is prohibited from disclosing any of the data subject to this Protective Order to anyone other than those persons mentioned herein.

4. Subject to the restrictions set forth in paragraph 5 below, the Department will produce the documents and information requested by Appellant

in the discovery process herein, which the Department contends include, consist of, and/or contain data classified as private or confidential.

5. The documents and information will be subject to the following restrictions:

(a) They will be used solely in connection with the above-entitled proceeding and will not be disclosed outside this proceeding. When patient data is disclosed in the course of this proceeding, the parties shall refer to the individuals by number or letter.

(b) They will not be disclosed by parties or counsel during the course of hearing preparation except to the following:

(i) The parties, the parties' counsel, and such employees of the parties' counsel who assist in the above-captioned proceeding, all of whom are bound by the terms of this Protective Order;

(ii) Independent experts of consultants working with the parties' counsel who prior to disclosure sign an agreement agreeing to be bound by the terms of this Protective Order; and

(iii) Other persons including witnesses and deponents as necessary to adequately conduct this litigation, provided that such persons prior to disclosure agree on the record to be bound or sign an agreement agreeing to be bound by the terms of this Protective Order and specifically agreeing that they will not disclose any private or confidential data outside this proceeding.

6. Appellant shall maintain in her possession any and all copies of the documents and information produced pursuant to this Protective Order and shall return all such copies to the Department's counsel at the close of this proceeding or upon expiration of the time for appeal, or Appellant shall certify that the privacy protections of the documents will be maintained.

7. Portions of the hearing may be closed as necessary to protect patient identities and to permit free discussion of nonpublic data. Unless otherwise ordered, any depositions taken this appeal shall be closed, and deposition transcripts shall be sealed.

Dated: November 4, 2010

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge