

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

NICHOLAS IPPOLITO,

Plaintiff,

v.

GLENN GOORD, Commissioner of New York  
State Department of Correctional Services, et al.,

Defendants.

---

DECISION & ORDER

05-CV-6683L

Pending before this Court is a motion by the defendants to compel plaintiff to respond to a document entitled, "Medicare Demand," which was served on April 5, 2011. (Docket # 228). The plaintiff opposes the motion on the grounds of untimeliness and irrelevance. (Docket # 230).

As plaintiff correctly notes, this Court set a deadline of August 29, 2008 for filing all motions to compel discovery. (Docket # 162). The pending motion was not filed until April 21, 2011. In the interim, defendants filed a summary judgment motion, which was denied without prejudice and thereafter filed another, which remains pending before the district court. (Docket ## 186, 203, 215). No explanation has been offered for the late filing, nor has leave been sought to permit the late filing.

The demand relates to new reporting requirements imposed on all parties involved in a payment of a settlement, judgment or award with a medicare beneficiary after October 1, 2010. *See* 42 U.S.C. § 1395y(b)(7)-(8). *See also* *Seger v. Tank Connection, LLC*, 2010 WL 1665253, \*4 (D. Neb. 2010). The requirement became effective over fifteen months before

defendants served their “Medicare Demand” and their subsequent motion to compel. No indication exists that the parties are currently engaged in settlement negotiations or that judgment for plaintiff is imminent.

Accordingly, defendants’ motion to compel (**Docket # 228**) is **DENIED without prejudice** to renewal in the event that settlement negotiations commence or judgment is awarded to plaintiff.

**IT IS SO ORDERED.**

*s/Marian W. Payson*

---

MARIAN W. PAYSON  
United States Magistrate Judge

Dated: Rochester, New York  
March 23, 2012