


FILED
Court Administrator

STATE OF MINNESOTA
COUNTY OF RAMSEY

JUN 23 2011

DISTRICT COURT
SECOND JUDICIAL DISTRICT

By  Deputy

Case Type: Other

In re Temporary Funding of Core
Functions of the Executive Branch
of the State of Minnesota

Court File No.: 62-CV-11--5203
Judge Kathleen R. Gearin

**PROPOSED PETITION OF PETITIONERS/
INTERVENORS SEIU LOCAL 284 KIDS
FIRST MN, SHARON BORN, TERRY
BICKNELL, AND REBECCA HALL**

INTRODUCTION

1. Service Employees International Union Local 284 (“Local 284”) is a union representing over 8,000 school support staff, including paraprofessionals, administrative professionals, custodial, school nutrition staff, school bus drivers, and early learning workers. The mission of Local 284 is to improve the lives of working people and lead the way toward a more just and humane society. Kids First MN is a part of Local 284 that unites over 6,000 licensed family childcare providers in 37 counties to be a strong voice for quality, affordable childcare in Minnesota.

2. Local 284 Kids First MN members and supporters are dedicated to ensuring that family childcare providers have a strong voice shaping early learning policies and are leading the way in advocating for investing in Minnesota’s children. Local 284 Kids First MN members, including Sharon Born, Terry Bicknell, and Rebecca Hall, provide child care for families who depend upon support from the MN Child Care Assistance Program and who could not afford childcare otherwise.

3. Sharon Born is a licensed Family Child Care Provider in Waseca, Minnesota, who provides essential childcare services to families receiving support from the MN Child Care

Assistance Program. *See* Affidavit of Sharon Born, dated June 22, 2011 and filed with this Proposed Petition (“Born Aff.”).

4. Terry Bicknell is a licensed Family Child Care Provider in St. Cloud, Minnesota, who provides essential childcare services to families receiving support from the MN Child Care Assistance Program. *See* Affidavit of Terry Bicknell, dated June 22, 2011 and filed with this Proposed Petition (“Bicknell Aff.”).

5. Rebecca Hall is a licensed Family Child Care Provider in St. Cloud, Minnesota, who provides essential childcare services to families receiving support from the MN Child Care Assistance Program. *See* Affidavit of Rebecca Hall, dated June 22, 2011 and filed with this Proposed Petition (“Hall Aff.”).

6. As the Attorney General’s Memorandum in Support of Motion for Relief (2011) (“AG Memo”) makes clear, public and medical assistance programs that are designed to protect the safety and welfare of Minnesota citizens are core functions of the executive branch. Childcare assistance is a critical piece of those core “social safety net” programs and helps Minnesota citizens meet their basic life necessities.

JURISDICTION AND VENUE

7. Jurisdiction in this action is based upon Minn. Stat. § 484.01.

8. Venue is appropriate in this District under Minn. Stat. § 542.01.

FACTUAL AND PROCEDURAL BACKGROUND

9. On June 13, 2011, Attorney General Lori Swanson submitted a petition requesting a court order to mandate the continued performance of executive branch core functions and payment for those functions in advance of an imminent government shutdown. This petition incorporates by reference the Factual and Procedural Background contained in the Attorney General’s Petition

(2011) (“AG Petition”) and the Factual Background in the Attorney General’s Memorandum in Support of Motion for Relief (2011) (“AG Memo”). Petitioners/Intervenors support Attorney General Swanson’s petition in full, including her Petition’s affirmation that the childcare assistance services were designated as a core function in connection with the government shutdown in 2005.

Minnesota Child Care Assistance Program

10. The State of Minnesota and local government entities administer the Minnesota Child Care Assistance Program (“CCAP”). “CCAP help[s] families pay child care costs for children up to age 12, and for children with special needs up to age 14. Child care costs may be paid for qualifying families while they go to work, look for work or attend school. To qualify for CCAP, families must comply with child support enforcement if applicable for all children in the family.”¹

11. CCAP in Minnesota provides support for families through three programs: (1) the Minnesota Family Investment Program (MFIP), (2) the Transition Year Program (TY), and (3) the Basic Sliding Fee Program. Eligibility for these programs is based on family income. Families work with county social service staff to choose the most appropriate program. MFIP Child Care Assistance provides case assistance to help families look for work, go to school, and move toward greater economic self-sufficiency as outlined in their MFIP Employment plan, which they develop with their county case worker. The Transition Year Program supports families who have left MFIP case during the prior 12 months but still need assistance. The Basic Sliding Fee Program provides services to low-income families who do not qualify for MFIP but

¹ Minnesota Department of Human Services, Child Care Assistance Profile, April 2011, http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_008688# (accessed on June 22, 2011).

need assistance as they look for a stable job. As of April 2011, there was a waiting list for the Basic Sliding Fee Program of about 4,000 families.

12. Licensed family child care providers care for 18,000 children on CCAP every day. In total, these programs provide support for approximately 57,106 children in Minnesota.

13. Family childcare providers register with their county and with Minnesota to be able to accept families who are eligible for CCAP. Depending on the program and the family's eligibility, parents may be required to pay a co-payment to care provided directly to the provider. The provider then submits paperwork each month to their county and DHS to receive additional payment based on care provided.

Childcare Assistance is a Core Function of the Executive Branch

14. For the reasons set forth in the AG Memo and below, childcare assistance under the Minnesota Child Care Assistance Program is a core function of the executive branch, and the Court's order should expressly include funding for CCAP throughout the duration of any government shutdown.

15. As the AG Memo states, the core functions of the executive branch include "matters relating to the life, health and safety of Minnesota citizens and the maintenance and preservation of public property." *See* AG Memo, at 8. On a fundamental and basic level, the integrated system of public assistance provided to the most vulnerable persons in Minnesota is absolutely critical to protecting the life, health, and safety of Minnesota citizens.

16. Family childcare assistance plays a pivotal role in helping families who rely on MFIP assistance, families who are transitioning out of MFIP, and other low-income families whose ability to stay off MFIP depends upon maintaining jobs or training that may not be possible without subsidized childcare.

17. If CCAP were to shut down starting July 1, the families that rely on subsidies would suffer enormous hardships that are compounded by the struggling economy. Many parents already struggle to cover the co-pays associated with their childcare subsidies. The shutdown likely would lead to families pulling their children out of day care and leaving their children with friends, neighbors or ex-spouses that are not qualified to care for the kids. Some children might even be left alone at home so the parent can try to continue working. *See* Born Aff. ¶ 4.

18. Left without access to safe, affordable childcare, some parents would have to give up their jobs. *See* Bicknell Aff. ¶¶ 4-5; Hall Aff. ¶ 4. For parents of children with disabilities, who need specialized care, this is a particularly significant concern. *See* Born Aff. ¶ 6.

19. Many family childcare providers cannot afford to remain in business without CCAP income. Providers including Sharon Born and Rebecca Hall serve subsidized families exclusively. *See* Born Aff. ¶ 3, Hall Aff. ¶ 3. Others depend on subsidy payments for a great portion of their income. *See* Bicknell Aff. ¶ 3. Client families cannot cover the lost income to providers; many already struggle with their monthly co-pay. In addition, providers depend on CCAP payments to cover costs of their childcare programs. *See* Born Aff. ¶ 8; Bicknell Aff. ¶ 7; Hall Aff. ¶ 8.

20. Beyond the loss of family childcare homes, which provide vital services to vulnerable communities, failure to continue CCAP payments would also have a disastrous effect on family childcare providers themselves, many of whom are also the sole or primary supporters for their own low-income families. *See* Born Aff. ¶ 9; Bicknell Aff. ¶ 6; Hall Aff. ¶ 6. Without the subsidy payments and within a very short timeframe, many providers would simply be unable to meet their basic living needs, much less continue meeting the costs of maintaining their small day care businesses. *See* Born Aff. ¶¶ 7-8; Bicknell Aff. ¶¶ 8-9; Hall Aff. ¶¶ 7-8.

21. CCAP depends in large part on Federal funding, which imposes certain requirements on the States. Future Federal block grants for Minnesota childcare assistance may be jeopardized if the Minnesota Department of Human Services fails to meet any of the obligations required by the Federal government in the disbursement of Federal funds.

22. Even assuming that Minnesota is not in jeopardy of violating its obligations to the Federal government, as a practical matter, the administration of childcare assistance is operationally integrated with the disbursement of other core public assistance programs in many counties. Childcare assistance is administered at the county level, along with many other health and human services programs, such as the Minnesota Family Investment Program (MFIP); food assistance; child welfare services; and other programs. For example, Cottonwood County reports that childcare assistance and food/financial assistance are integrated, explaining that “financial workers do eligibility for child care assistance,”² and Carlton County states that “[f]inancial assistance and child care services are integrated in the Financial Department.”³

23. To cite yet another example, Hennepin County is completing its transition to providing financial, social, and public health services (including child care assistance and TANF) through an integrated model it calls the Client Service Delivery Model, or CSDM, based on principles including “[a]ddressing needs holistically from initial contact onwards.”⁴ In the CSDM model, which now involves over 170 staff,⁵ all incoming clients meet with a Case Management Assistant. Clients identified as needing any of the cash, food, or medical programs

² 2010-11 County MFIP/CCSA Biennial Service Agreement, Cottonwood County, 22, www.co.cottonwood.mn.us/2010-2011%20CCSA.doc (accessed June 22, 2011).

³ 2010-11 County MFIP/CCSA Biennial Service Agreement, Carlton County, 16, http://www.co.carlton.mn.us/departments/public_health_human_services/PDFs/2010-2011-MFIP-Biennial-Agreement.pdf (accessed June 22, 2011).

⁴ HSPHD’s New Direction: Delivering services in the 21st century, Hennepin County Human Services and Public Health Department, 4, http://hennepin.us/files/HennepinUS/HSPHD/Department/Client%20Service%20Delivery%20Model/Handout_V18_053111.pdf (accessed June 22, 2011).

⁵ *Id.*

are directed to the Eligibility Supports (ES) Team have a face-to-face interview with a Human Services Representative who “processes emergency requests, assists in securing child care, authorizes emergency homeless shelter, performs system entries, and refers clients to community resources.” The ES Team determines eligibility for cash, medical, and food programs.⁶

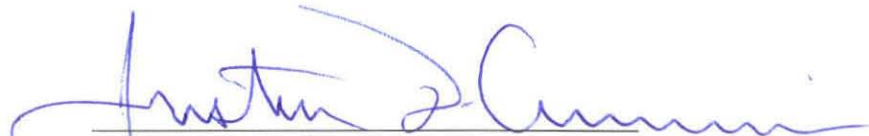
PRAYER FOR RELIEF

WHEREFORE, Petitioners/Intervenors Local 284 Kids First MN, Sharon Born, Terry Bicknell, and Rebecca Hall respectfully seek the following relief:

- A. An Order that Minnesota’s executive branch will continue to perform the core functions required by the Minnesota Constitution, the United States Constitution, and Federal law pursuant to the Supremacy Clause of the United States Constitution such that the State of Minnesota shall pay for all core functions and services, including the Minnesota Child Care Assistance Program; and
- B. Such other and further relief as the Court deems just and appropriate.

Dated: June 22, 2011

MILLER O’BRIEN CUMMINS, PLLP



Justin D. Cummins (#276248)
Timothy J. Louris (#391244)
One Financial Plaza
120 South Sixth Street, Suite 2400
Minneapolis, MN 55402
612-333-5831

**ATTORNEYS FOR INTERVENORS/
PETITIONERS**

⁶ *Id.*