

FILED  
Court Administrator

STATE OF MINNESOTA

JUL 19 2011

DISTRICT COURT

COUNTY OF RAMSEY

By  Deputy

SECOND JUDICIAL DISTRICT

In re Government Shutdown Litigation,

Case Type: Civil  
Court File No. 62-CV-11-5203

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

**ORDER REGARDING LIFETRACK  
RESOURCES, MINNESOTA COALITION  
FOR THE HOMELESS, HEADING HOME  
MINNESOTA COMMUNITY LEADERS  
COUNCIL, AND MINNESOTA  
WORKFORCE COUNCIL ASSOCIATION**

On June 23, 2011, the undersigned heard oral argument pursuant to the Motion of Petitioner Lori Swanson, Attorney General for the State of Minnesota, for temporary funding of the executive branch. On June 29, 2011, the Court issued its Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding.

In its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding dated June 29, 2011, the Court appointed retired Minnesota Supreme Court Chief Justice Kathleen Blatz as Special Master to hear and make recommendations to the Court with respect to issues regarding compliance with the terms of its Order. On July 1 and July 5, 2011, Special Master Blatz conducted evidentiary hearings regarding Petitioners seeking state funding as providers of critical core functions of government.

The Court accepts and adopts the attached findings of the Special Master subject to modification pursuant to Minn. R. Civ. P. 53.07(b) with respect to the requests of government offices and petitions brought by programs (hereinafter listed).

Based on the file, proceedings, and recommendations, the Court makes the following  
ORDER:

1. The Court amends its Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding of June 29, 2011 to allow for the continued funding of the 16 Workforce Councils operating across the State pursuant to the federal Workforce Investment Act, as set forth in the Special Master's attached recommendation, as these programs are funded with federal pass through monies.
2. The Court takes no action on Minnesota Coalition for the Homeless and Heading Home Minnesota Community Leaders Council's requests for continued funding of the Emergency Services Program, Transitional Housing Program, Runaway and Homeless Youth grants, and Long-Term Homeless Services Grants because they are all moot due to this Court's July 13, 2011 Order.
3. The clarifications regarding continued funding of the Family Homeless Prevention and Assistance Program administered by the Minnesota Housing Finance Agency, as set forth in the attached Special Master's recommendation, are adopted and made part of this Court's June 29, 2011 Order.
4. The clarifications regarding continued funding by the Department of Health of family-support services programs operated under Minn. Stat. § 144.966, as set forth in the attached Special Master's recommendation, are adopted and made part of this Court's June 29, 2011 Order.

Dated:

7-19-11

BY THE COURT:



The Honorable Kathleen Gearin  
Chief Judge  
Ramsey County District Court

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions  
of Executive Branch of the State of Minnesota

**SPECIAL MASTER  
RECOMMENDATIONS FOR  
LIFETRACK RESOURCES**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 5, 2011. Present before the Special Master were Lori Swanson, Attorney General; Al Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; Trixie Goldberg, Candace Lindow-Davies, and Diane Heldt on behalf of Petitioner Lifetrack Resources, Inc.

Based upon the testimony at the hearing, the Special Master makes the following:

**Recommendation**

1. The Court should **CLARIFY** its Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding of June 29, 2011 ("Order") as requiring the continued funding by the Department of Health of family-support services programs operated under Minnesota Statute § 144.966.

**Concerns of Petitioner**

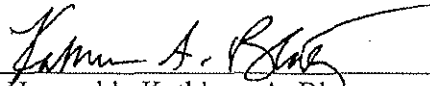
1. Petitioner seeks continued funding by the Department of Health for statutorily mandated family-support services, which they provide to parents of children who are deaf or have hearing loss.

## Analysis

1. Petitioner is a nonprofit human services agency that provides services to individuals and children with disabilities and other vulnerable populations. One of the services provided by Petitioner is family-support services to parents and families coping with diagnoses of hearing impairment after newborn hearing screening tests.
2. The services are funded through fees paid by hospitals – \$5.00 per newborn – for the required newborn hearing screening test.
2. The Special Master heard evidence that the timing of any intervention to address hearing loss in children is critical. There are certain neurological and developmental windows during which intervention can have the most effect. Missing these windows can permanently reduce the effectiveness of any intervention.
3. Petitioner provides ongoing support services that help parents dealing with their children’s diagnoses of hearing impairment. These services aid parents in understanding the full range of communication, educational and medical options available to address their children’s hearing impairment. This understanding is essential to ensure that children with hearing impairment receive treatment that is best suited to address the neurological and developmental factors at play.
4. Pursuant to the Order, the newborn hearing screening program overseen by the Department of Health is continuing during the government shutdown. (Order Ex. A (under “Health”).) Failure to fund these continuing services during the government shutdown may result in Minnesota children facing lifelong hearing deficits that could have otherwise been resolved with timely intervention during critical neurological or developmental timeframes. The services provided by Petitioner directly impact the life, health and safety of Minnesota citizens,

and, thus constitute a critical core function of government. (*Id.* p. 15 ¶ 4.) Accordingly, the Special Master recommends the continued funding by the Department of Health of family-support services provided by Petitioner pursuant to Minnesota Statute § 144.966.

Dated: July 14, 2011

  
\_\_\_\_\_  
The Honorable Kathleen A. Blatz  
Special Master

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions  
of Executive Branch of the State of Minnesota

**SPECIAL MASTER  
RECOMMENDATIONS FOR  
MINNESOTA COALITION FOR THE  
HOMELESS AND HEADING HOME  
MINNESOTA COMMUNITY LEADERS  
COUNCIL**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 1, 2011. Present before the Special Master were Lori Swanson, Attorney General; Alan Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; Alexandra Fitzsimmons; Laura Kadwell, Statewide Director of the Heading Home Minnesota Community Leaders Council; Liz Kuoppala, Executive Director of the Minnesota Coalition for the Homeless; Julie Manworren, Executive Director for Simpson Housing Services; and Julie Grothe, Director of Delancey Services for Guild Incorporated.

Based upon the testimony provided at the hearing and the Court's Order Regarding Continued Funding of Grants and Programs by Department of Human Services of July 13, 2011 ("July 13<sup>th</sup> Order"), the Special Master makes the following:

**Recommendation**

1. The Court should **TAKE NO ACTION** on Petitioners' requests for continued funding of the Emergency Services Program, the Transitional Housing Program, the Runaway

and Homeless Youth grants, the Long-Term Homeless Services Grants because these requests have been mooted by the July 13<sup>th</sup> Order.

2. The Court should **CLARIFY** that the continued funding of the Family Homeless Prevention and Assistance Program (“FHPAP”) administered by the Minnesota Housing Finance Agency is a critical core function of government encompassed within the Court’s Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding of June 29, 2011 (“Order”).<sup>1</sup>

#### **Petitioners’ Concerns**

1. Petitioners seek continued funding of a variety of programs and grants for homelessness and transitional housing during the ongoing government shutdown.

#### **Analysis**

1. Funding for the Emergency Services Program, the Transitional Housing Program, the Runaway and Homeless Youth grants, the Long-Term Homeless Services Grants administered by the Department of Human Services (“DHS”) is ongoing in accordance with the Court’s July 13<sup>th</sup> Order. Accordingly, no action is required on Petitioners’ request for continued funding of these grants and programs.

2. FHPAP provides direct assistance and services to households at risk of losing housing and those who are recently homeless by providing short-term rent assistance, damage deposits, and utility assistance. As noted in paragraph 1 above, similar grants and programs operated by DHS have already been deemed to be covered by the Order. However, FHPAP is administered by the Minnesota Housing Finance Agency, not DHS, and, therefore, was not

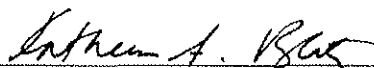
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<sup>1</sup> If the Court were to adopt this recommendation, it would dispose of one of the issues brought by Lutheran Social Service in its Petitions.

included in the Special Master's Recommendation addressing similar but DHS-administered grants/programs.

3. Consistent with previous rulings, the Special Master recommends that the Court clarify that continued funding of FHPAP is a critical core function of government necessary to preserve the life, health and safety of Minnesota citizens and is encompassed within the Order.

Dated: July 14, 2011

  
\_\_\_\_\_  
The Honorable Kathleen A. Blatz  
Special Master



STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

Court File No. 62-CV-11-5203

In Re: Temporary Funding of Core Functions  
of Executive Branch of the State of Minnesota

**SPECIAL MASTER  
RECOMMENDATIONS FOR  
MINNESOTA WORKFORCE COUNCIL  
ASSOCIATION**

This matter came before the Special Master, the Honorable Kathleen A. Blatz, in Room 230 of the Minnesota Judicial Center on July 1, 2011. Present before the Special Master were Lori Swanson, Attorney General; Alan Gilbert, Solicitor General and Deputy Attorney General; David Lillehaug, Special Counsel to the Office of the Governor; Joseph Cassioppi, Special Counsel to the Office of the Governor; David Zoll, Attorney for Petitioner Minnesota Workforce Council Association (“MWCA”); Anne Olson, Director of the MWCA; and Jerry Vitzhum, Legislative Chair for the MWCA and Director of the Anoka County Job Training Services.

Based upon the arguments of counsel and testimony provided at the hearing, the Special Master makes the following:

**Recommendation**

1. The Court should **AMEND** the Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding of June 29, 2011 (the “Order”) to allow for the continued funding of the 16 Workforce Councils operating across the State pursuant to the federal Workforce Investment Act (“WIA”).<sup>1</sup>

<sup>1</sup> Petitioner’s request for continued funding under the Temporary Aid to Needy Families Program has already been addressed by the Court in its Order Regarding Continuing Funding of Grants and Programs by Department of Human Services of July 13, 2011 (“July 13<sup>th</sup> Order”). (July 13<sup>th</sup> Order p. 2 ¶¶ 1-2.)

### Concerns of Petitioner

1. Petitioner seeks continued disbursement of federal funding to the Workforce Councils and Workforce Centers throughout the state under the WIA.

### Analysis

1. Petitioner represents the Workforce Councils for each of the 16 Workforce Service Areas across the State, which operate under the WIA. 20 U.S.C. § 9201, *et seq.* The Workforce Councils coordinate with local governments and non-profit organizations to provide job-training services to youth, adults and dislocated workers who require assistance to fully participate in the labor force. The Workforce Councils oversee operation of 49 Workforce Centers throughout the State.

2. The Workforce Councils provide support services to individuals receiving benefits under the federal Temporary Aid for Needy Families (“TANF”) program that continues to be funded under the Order. (Order p. 7-8 ¶ 25; p. 15-16 ¶ 5.) The Court recognized in the July 13<sup>th</sup> Order that the provision of job-skills training and job-search assistance for TANF beneficiaries is critical core function of government that must continue to be funding during the ongoing government shutdown. (July 13<sup>th</sup> Order p. 2 ¶ 1.) The Workforce Centers provide these job-skills training and job-search assistance services to TANF beneficiaries.

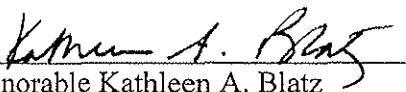
3. The Special Master heard evidence that the WIA funds provided to the State are true “pass-through” federal funds, in that they are not subject to any state-matching requirement. The WIA funds are disbursed to the State by a federal block grant, and, the Department of Employment and Economic Development, in turn, disburses these funds to individual Workforce Investment Boards. Not a single State dollar would be implicated by an order for continued

disbursement of WIA funds because federal funding is provided to the State for the costs of administering this funding.

4. Petitioner did not assert that the Supremacy Clause required the disbursement of WIA funds, but instead reserved the issue. Petitioner also argued that these funds are presently available for expenditure by the Executive Branch and do not require any legislative appropriation under Minnesota Statute § 3.3005. This identical argument was presented by Petitioner to the Court in a June 21, 2011 Memorandum. (*See* Response and Mem. of Intervenor Workforce Council Association 3-4.) The Court did not address this legal argument in the Order, and the Special Master declines to address it in the first instance.

5. The Special Master recommends that the Court amend the Order to specifically provide for the continued disbursement of WIA funds by the Department of Employment and Economic Development. TANF beneficiaries participate in programs offered by Workforce Centers to meet their obligation to participate in qualified job-skills and job-seeking activities, which are specifically required under the TANF program. Accordingly, a failure to order continued WIA funding may improperly affect receipt of TANF benefits, which have already been deemed a critical core function of government under Supremacy Clause principles. (Order p. 7-8 ¶ 25.) Further, these funds are 100% federal pass-through funds, with funding for the State to administer payment without any state-matching requirement.

Dated: July 14, 2011

  
The Honorable Kathleen A. Blatz  
Special Master