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MICHAEL K. JEANES, Clerk

By L. Muhammad
L. Muhammad, Deputy

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ARIZONA ASSOCIATION OF PROVIDERS
FOR PERSONS WITH DISABILITIES, an
Arizona nonprofit corporation; BEVERLY
HERMON, individually and as legal guardian
for Eric Hermon; TONI McCLEOD, as legal
guardian for E.K. and R.K.; REEVES
FOUNDATION, LLC, an Arizona limited
liability company; DOMINIC BARRERA;
ABRiO FAMILY SERVICES AND
SUPPORTS, INC., an Arizona corporation;
FAMILY PARTNERS, LLC, an Arizona
limited liability company; METRO CARE
SERVICES, INC., an Arizona corporation,

Plaintiffs,

vs.

STATE OF ARIZONA; LINDA BLESSING
in her official capacity as Director of the
Arizona Department of Economic Security,

Defendants.

NO. CV2009-006509

PRELIMINARY INJUNCTION

1 **PRELIMINARY INJUNCTION**

2 This case raises serious, indeed grave questions of public policy and law.
3 The procedural violations have serious substantive impact. Sorting out the multiple legal
4 issues can await disposition on the merits. Preventing immediate and irreparable harm is
5 required.

6 In considering the evidence and legal arguments, including the various
7 funding streams that are funneled from one agency to another (*e.g.*, Medicaid-AHCCCS;
8 Medicaid-ALTCS-DDD; State-Only DDD, early intervention services -DDD) this Court
9 will not “lose sight of the forest for the trees”. This case concerns the immediate welfare
10 of children and adults with severe disabilities, their families and guardians, and the
11 interests of the private provider network of services on which the State and DES depend
12 to meet their obligations under federal and state laws. As the result of SB 1001 and these
13 defendants’ plans to implement budget and service reductions within DES-DDD, this
14 Court finds there will be harm to some program beneficiaries and private providers,
15 including plaintiffs; that the defendants do not know to what degree their harm will arise
16 and have not had the opportunity to plan and prevent; that the harm that occurs will likely
17 be immediate and irreparable in some cases, including to the health and welfare of
18 individuals and the financial viability of providers, which correspondingly impacts the
19 availability and accessibility of services.

20 Therefore, with respect to the DES Division of Developmental Disabilities,
21 IT IS HEREBY ORDERED that these defendants, their officers, directors,
22 employees and agents, are enjoined from enforcing the service suspensions and
23 reductions, rate cuts and the like, as set forth in Hearing Exhibit #2, page 7 of 9, bullet #
24 2 and 3, entitled: “Suspend Non-Residential State-Only services” and “Reduce Provider
25 Rates” (Division of Developmental Disabilities section only), or from taking any similar
26 actions, for so long as this Preliminary Injunction shall remain in force and effect.

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IT IS FURTHER ORDERED,

1. That Defendants shall not suspend or reduce any services for individuals with developmental disabilities who are served by DES-DDD, where the suspension or reduction in services is a result of Defendants' budget reduction plan to achieve compliance with SB 1001 for so long as this preliminary injunction remains in force and effect; and, Defendants shall restore to previous levels any such services already reduced or suspended by virtue of the budget reduction;

2. That with respect to individuals who receive early intervention services from DES-DDD, Defendants shall notify those individuals whose services were suspended, reduced or terminated as a result of Defendants' budget reduction plan to achieve compliance with SB 1001, of the issuance of this preliminary injunction, and the continuation of services, by sending corrective notices to those individuals in the same manner in which the suspension, reduction and/or termination notices were sent; and, that early intervention services authorized and reauthorized by DES-DDD that were suspended, reduced or terminated as a result of Defendants' budget reduction plan to achieve compliance with SB 1001, shall be restored and continued so long as this preliminary injunction remains in force and effect. Such corrective notices shall inform such individuals that their services will continue at existing levels and/or be restored to previous levels before any budget-related reductions or suspensions;

3. That with respect to state-only funded beneficiaries who do not receive early intervention services, Defendants shall notify those individuals whose services were suspended, reduced or terminated as a result of Defendants' budget reduction plan to achieve compliance with SB 1001, of the issuance of this preliminary injunction, and the continuation of services, by sending corrective notices to those individuals in the same manner in which the suspension, reduction and/or termination notices were sent; Such corrective notices shall inform such individuals that their services

1 will continue at existing levels and/or be restored to previous levels before any budget-
2 related reductions or suspensions;

3 4. That defendants are enjoined from sending any further notices
4 regarding service reductions and suspensions (e.g., re-mailing notices that are returned by
5 the post office) due to budget reductions, at least as long as this preliminary injunction
6 remains in effect;

7 5. That Defendants shall notify all DES-DDD providers who are, or
8 were as of March 5, 2009, authorized to provide services to individuals who received a
9 notification about a suspension reduction and/or termination of services as a result of
10 Defendants' budget reduction plan to achieve compliance with SB 1001, of the issuance
11 of this preliminary injunction, and that services that were either suspended, reduced
12 and/or terminated as set forth in the notification sent to beneficiaries, their families and
13 guardians, are continued for as long as the preliminary injunction remains in force and
14 effect;

15 6. That defendants shall notify all DES/DDD employees of this ruling
16 and direct them to continue services, consistent with this injunction;

17 7. That defendants take whatever action is necessary to restore the
18 payment rates for all services that were subject to the 10% rate reduction, to the levels
19 that were in existence prior to the rate reductions, as a result of Defendants' budget
20 reduction plan to achieve compliance with SB 1001, retroactive to March 1, 2009;

21 8. That defendants adhere to existing standards (both administrative
22 and statutory) regarding timely payment of provider claims;

23 9. That defendants post conspicuous information on the DES website
24 advising the public: a). of this preliminary injunction and its particulars; b) that the
25 reductions, cuts and suspensions of services previously announced by DES have been
26 rescinded; c) and that services will continue; and

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10. That defendants report their compliance with this injunction to the Court regarding all of the foregoing, and that before any Court involvement is requested regarding such compliance, the parties and their respective counsel are directed to meet and confer as to any such compliance issue.

IT IS FURTHER ORDERED, in accordance with Rule 65(e), A.R.C.P., that a nominal bond in the amount of \$10.00 is required from plaintiffs, which shall be posted within one week from this date.

DONE IN OPEN COURT, this 11th day of March, 2009.

Hon. Joseph Heilman

Hon. Joseph B. Heilman, Judge of the Superior Court.