

13.

STATE OF MINNESOTA
COUNTY OF RAMSEY

FILED
Court Administrator

MAR 5 2010

DISTRICT COURT
SECOND JUDICIAL DISTRICT

By [Signature] Deputy

File No.: 62-CV-10-1830

Robert Fischer, Gabriella Raspa, and James
Beede, on behalf of themselves and all others
similarly situated,

Petitioner,

v.

**AMENDED ORDER DENYING
MOTION
FOR TEMPORARY
RESTRAINING ORDER**

Tim Pawlenty, Governor of the State of
Minnesota, Thomas Hanson, Commissioner,
Minnesota Department of Management and
Budget, and Cal Ludeman, Minnesota
Department of Human Services,

Respondent.

The above-entitled matter came before the undersigned at approximately 9:30 A.M. on March 5, 2010 pursuant to a motion for a temporary restraining order filed by the Plaintiffs. Because the petitioners requested temporary restraining order included a request to immediately enjoin the executive branch from making changes to its computer system on March 6, 2010, the court held a telephone conference call to determine whether the parties would agree to submit the matter of an immediate temporary restraining order on the pleadings submitted today March 5, 2010 and yesterday March 4, 2010.

Attorneys Michael Fargione, Anne Quincy, and Galen Robinson represented the plaintiffs in the conference call. Deputy Attorney General Steven Gunn and Assistant Attorney General Jeffrey Harrington represented the defendants on the conference call. Patrick Robben, General Counsel to the Governor, represented the Governor on the conference call. The parties agreed to submit the matter on the pleadings.

Based upon the files, records, and proceedings herein, the Court makes the following Order:

IT IS HEREBY ORDERED:

1. The petitioner's motion for an immediate temporary restraining order which would prohibit the Department of Human Services from making changes to the State's MAXIS computerized eligibility system to convert the eligibility of those on GAMC to Transitional MinnesotaCare is DENIED.
2. The remaining issues of the governor's unallotment of \$15,789,000 for GAMC for the July 1, 2009- June 30, 2010 is continued for further hearing on June 3, 2010 at 9:00 A.M.
3. The attached Memorandum is incorporated into and made a part of this Order.

Dated: 3-5-10

BY THE COURT:



Hon. Kathleen Gearin
Chief Judge of District Court

Memorandum

The plaintiffs are attempting to restrain the defendants from ending General Assistance Medical Care (GAMC) on March 31, 2010. More specifically the plaintiffs requested an immediate temporary restraining order to stop the Department of Human Services from making changes to the State's MAXIS computerized eligibility system to convert the eligibility of those on GAMC to Transitional MinnesotaCare. The department of human services will be making these changes beginning tomorrow, March 6, 2010. The plaintiff recognizes that the Governor's constitutional use of his veto power eliminated the GAMC program for July 1, 2010- June 30, 2011 year.

The Governor announced the unallotment of funds for 2010 funding of GAMC in June and July of 2009. Since that time the legislature, the governor, and the public have had ample time to debate and to plan for the current March 31, 2010 end date for GAMC. Most importantly to this court, the legislature reconvened on February 4, 2010. Since that date both the Minnesota House of Representatives and the Minnesota Senate have passed funding bills that would continue GAMC past the March 31, 2010 planned end date. The governor vetoed both of those bills. Even more recently the Senate overrode the governor's veto of that bill, and the House attempted an override, which failed. On March 1, 2010 the bill was tabled for reconsideration. Since that time the legislature and the governor have continued negotiations on this bill for GAMC funding, with meetings as recent as yesterday afternoon. *See Zielinski Aff.* ¶¶ 8-11.

As the court in *Sviggum v. Hanson*, 732 N.W.2d 312, 322 (Minn. App. 2005) wrote, "because of the structure and function of legislative power, it is the legislature and not the judiciary that has the institutional competency to devise a prospective plan for

resolving future political impasses.” The court believes that by granting the plaintiffs motion for a temporary restraining order, the court would effectively be stepping into an on-going political process that still may resolve the relevant issues in this case. Based on the courts great respect for the constitutional separation of powers and the extraordinary remedy that a temporary restraining order represents, the court must deny the plaintiffs motion for a temporary restraining order.

The Legislative branch has the fundamental constitutional power to appropriate the public funds. This power is tempered by the Governor’s veto authority. Their policy differences regarding how to deal with funding for the GAMC program can only be resolved by them. Those branches have the institutional competency to break the present budgetary deadlocks, not the judicial branch.

It is important that all parties understand that the decision made by this Court today has nothing to do with the appropriateness or merit of GAMC and the Transactional MinnesotaCare programs. Difficult decisions will have to be made by the Executive and Legislative branches in order to deal with the continuing budget crisis in this state and its effect upon the states medical care providers dealing with the states neediest citizens.

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