

FILED
Court Administrator

STATE OF MINNESOTA

JUL 05 2011

DISTRICT COURT

COUNTY OF RAMSEY

By j Deputy

SECOND JUDICIAL DISTRICT

CASE TYPE: CIVIL

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

Court File No: 62-CV-11-5203

**SPECIAL MASTER
MEMORANDUM OF
MINNESOTA ASSOCIATION
OF TREATMENT
PROGRAMS**

INTRODUCTION

The Minnesota Association of Treatment Programs (“MATP”) is an unincorporated association of organizations (“Providers”) whose mission is to provide treatment to and otherwise care for and assist chemically dependent persons within the State of Minnesota. A representative list of the Providers is attached as Exhibit “A.”

The mission and work of the Providers is funded in substantial part by the Consolidated Chemical Dependency Treatment Fund (CCDTF), a State-operated, County-managed system for provision of chemical dependency treatment to people eligible for public assistance. A significant portion (projected to be \$10 million) of CCDTF funding arises from medical assistance payments on behalf of clients to various Minnesota counties. These counties deliver the medical assistance funds to the CCDTF. Approximately \$9 million of the CCDTF expenditures come directly from a federal block grant through the U.S. Department of Health & Human Services’ Center for Substance Abuse Treatment. (See: FFY 2011 Substance Abuse Prevention & Treatment Block Grant Spending Plan (Draft), Minnesota Department of Human Services (September 2010) (available at: http://www.dhs.state.mn.us/main/groups/disabilities/documents/pub/dhs16_139223.pdf.)

This federal block grant is authorized pursuant to 42 U.S.C. § 300x-21, *et seq.* One of the requirements for receiving the block grant is that the State of Minnesota must maintain aggregate State expenditures at a level that is not less than the average level of such expenditures maintained by the State for the 2 year period proceeding the fiscal year for which the State is applying for the grant. 42 U.S.C. § 300x-30. If the State of Minnesota fails to comply with the requirements for the block grant, the Secretary of Health & Human Services may suspend payments under the grant, may terminate the grant for cause, or may require the State to repay with interest any grant payments that were not expended. 42 U.S.C. § 300x-55.

If the State fails to allocate funds to the CCDTF, the level of State expenditures will drop, thus failing to meet the requirements of the block grant. Such failure risks continued receipt of block grant funds or forfeiture of funds already granted.

PROCEDURAL POSTURE

The Court made the following Findings of Fact and Conclusions of Law which are relevant to the continued operation of the CCDTF funds:

- The Supremacy Clause of the United States Constitution requires that the State of Minnesota perform certain core functions of the government pursuant to an intergovernmental compact agreement or congressional mandate. (Findings of Fact ¶ 22.)
- Any order of this Court allowing the Commissioner of the Department of Management and Budget to issue checks and process funds to pay for core functions and obligations that the State has pursuant to the Supremacy Clause of the United States Constitution should limit itself to only the most critical functions of government involving the security, benefit, and protection of the people. (Findings of Fact ¶ 29.)
- The core functions of the executive branch arise from the state and federal constitutions, including the independent functions inherent in each executive office, *Mattson*, 391 N.W.2d at 783-83, as well as mandates of the federal government pursuant to the Supremacy Clause of the United States Constitution. . . . Core functions include matters relating to the life, health and safety of Minnesota citizens, the protection of rights of citizens under the Minnesota and United States

Constitutions, and the maintenance and preservation of public property.
(Conclusions of Law ¶ 4.)

- The State of Minnesota has entered into agreements with the United States government to participate in a variety of programs, including, for example, . . . the Medicaid Program. Under these agreements, continued participation in those programs is required once a State has agreed to participate. The Supremacy Clause of the United States Constitution, Article VI, clause 2, mandates that any funds paid by the State as a result of participation in these federal programs must continue.
(Conclusions of Law ¶ 5.)

ARGUMENT

Continued administration of CCDTF funding is a core function of Minnesota's government.

The Providers are Supported by Federally-Funded Programs.

The Court has ordered that the shutdown may not interfere with the flow of federal dollars (including medical assistance dollars) to their intended recipients as required by the Supremacy Clause of the United States Constitution. To give meaning to that order, CCDTF funding needs to be continued.

The Providers are Integral to the Judicial System.

The Court ordered the continuation of correctional supervising after June 30, 2011, and included incarceration and community supervision of offenders. The programs funded by CCDTF and operated by the Providers are an integral part of the incarceration process. When persons are referred to the Providers through civil or criminal court, the courts rely on the Providers to monitor these individuals, and the Providers become the de facto supervisory agency. If the State ceases administration of the CCDTF, the Providers will be unable to accept any referrals, and the courts will not have the option of imposing on individuals a condition of chemical dependency treatment. This is an immediate and highly consequential imposition on the administration of justice and the judicial branch's means to control its cases.

The Providers Protect the Safety of the Community.

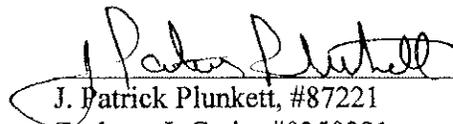
Alcohol and drug abuse is the primary contributing factor for the vast majority of individuals who engage in behaviors dangerous to themselves and the community. As noted above, persons receiving treatment funded by CCDTF are referred by local courts. These referrals are designed and intended to keep drug substance abusers out of incarceration. Without the Providers being open, it is not difficult to imagine these individuals returning to illegal activities to fuel their addictions. Additional safety concerns exist in the case of pregnant women receiving services from the Providers. A return to drug and alcohol abuse in the absence of treatment for such women enhances the likelihood that their children will be born addicted to drugs or alcohol.

CONCLUSION

The treatment of Minnesota's vulnerable adults grappling with the hooks of chemical dependency is a critical, core function of the State.

Respectfully Submitted,

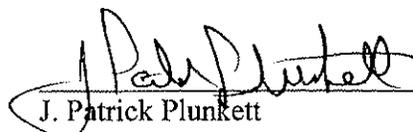
Dated: July 1, 2011



J. Patrick Plunkett, #87221
Zachary J. Crain, #0350321
MOORE, COSTELLO & HART, PLLP
Suite 1400
55 East Fifth Street
St. Paul, Minnesota 55101-1792
Telephone: (651) 227-7683

Attorneys for
Minnesota Association of Treatment Programs

The undersigned hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211.



J. Patrick Plunkett

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Exhibit A
Members of the Minnesota Association of Treatment Programs

- 1) RS Eden
1931 W Broadway Ave.
Mpls., MN, 55411
Fee for service outpatient and residential C.D. treatment. Also receives grants from the state.

- 2) Project Turnabout
660 18th St. P.O. Box 116
Granite Falls, MN. 56241
Fee for service outpatient and residential C.D. treatment.

- 3) Haven Chemical Health Systems
2042 Wooddale Dr. #220
Woodbury, MN. 55125
Fee for services outpatient and residential C.D. treatment.

- 4) Park Avenue Center
2525 Park Ave.
Mpls., MN. 55404
Fee for service outpatient C.D. treatment

- 5) Wayside House Inc.
3705 Park Center Drive
St. Louis Park, MN. 55416
Fee for service women's C.D. outpatient and residential treatment, housing, and support services.

- 6) The Gables
604 5th St. S.W.
Rochester MN. 55902
Fee for service women's Residential C.D. treatment.

- 7) Meridian Behavioral Health
550 Main St. #230
New Brighton, MN. 55112
Fee for service outpatient and residential C.D. treatment.

- 8) River Ridge Treatment Programs
14750 Lac Lavon Dr.
Burnsville, MN. 55306
Fee for service outpatient and residential treatment.

9) Pride Institute
14400 Martin Dr.
Eden Prairie, MN. 55344
Fee for service GLBT outpatient and residential treatment.

10) Recovery Resource Center
1900 Chicago Ave. S.
Mpls., MN. 55404
Fee for service outpatient C.D. treatment.

11) We Care Counseling Center
6027 N. Georgia Blvd.
Oakdale, MN.
Fee for service outpatient C.D. treatment.

12) Common Ground
1027 7th St. N. W. #207
Rochester, MN. 55901
Fee for service outpatient C.D. treatment

13) Turning Point
1500 Golden Valley Rd.
Mpls., MN. 55411
Fee for service outpatient and residential C. D. treatment for African Americans.

14) Fountain Centers
408 Fountain St.
Albert Lea, MN. 56007
Fee for service outpatient and residential C. D. treatment

15) Create Inc.
1911 Pleasant Ave. S.
Mpls., MN. 55403
Fee for service outpatient C.D. services.

16) ShareHouse
4227 9th Ave S.W.
Fargo, N.D. 58110
Fee for service outpatient and residential C.D. services with multiple Minnesota sites.

17) St. Cloud Hospital-Recovery Plus
1406 6th Ave. N.
St. Cloud, MN. 56303
Fee for service outpatient and residential C. D. services

- 18) Rum River Hills C.D.**
101 18th Ave. N.
Princeton, MN 55371
Fee for service outpatient C.D. treatment.
- 19) Nuway House**
2518 First Ave. S.
Mpls., MN. 55404
Fee for service outpatient and residential C. D. services
- 20) Washington County HSI**
275 Orleans
Stillwater, MN. 55082
Fee for service outpatient C. D. services
- 21) Adolescent Treatment Center of Winnebago**
620 First Ave. S. W.
Winnebago, MN. 56098
Fee for service Adolescent C. D. residential treatment
- 22) Juel Fairbanks Chemical Dependency Services**
806 North Albert Street
St. Paul, Minnesota 55104
- 23) Pathway House**
PO Box 6610
Rochester, MN 55903
- 24) ART of Rochester, LLC**
903 W. Center Street, Suite 230
Rochester, MN 55902
- 25) Hazelden**
PO Box 11
Center City, MN 55012
- 26) Professional Counseling Center**
7 Hwy 55
Buffalo, MN 55313
- 27) Transformation House**
1410 South Ferry Street
Anoka, MN 55303

28) Haven Road Recovery Center, LLC
16403 Haven Road
Little Falls, MN 56345

29) On Belay House
115 Forestview Lane
Plymouth, MN 55441