



James Weir

v.

Accra Care Inc

and

Department of Employment and Economic Development

Court of Appeals #: A12-764

## **Background**

1999-February 2003: JoAnne Weir suffered a series of strokes causing acute impairment followed by periods of impressive recovery but with a gradual cumulative impairment of her ability to live on her own. Her needs during this time included meals prepared in advance for her to heat, housekeeping, financial management, and medication supervision. All of these needs were taken care of by her son James and eventually resulted in nearly daily visits to her home.

March 2003-November 2006: Due to the cumulative effects of the series of strokes Mrs. Weir was deemed unable to live alone in her house even with the assistance of her son. She was impaired enough to qualify for nursing home care paid for by medical assistance but it was decided to move her to The Pines, an assisted living residence. With regular visits by her son to give assistance not provided by the Pines she was able to successfully reside there until her condition gradually deteriorated to the point that James was unable to visit frequently enough to tend to her increased needs. All expenses were paid by Mrs. Weir and her son during this period. Although the staff opinion was that Mrs. Weir should move to a nursing home when her needs became too great to be met at The Pines a decision was made to have Mrs. Weir move home with her son James.

December 2006-July 2009: Despite issues with incontinence, confusion, and assistance with various personal needs this arrangement worked well and Mrs. Weir enjoyed a normal life at home. James was able to leave her alone for up to several hours with prepared meals and recorded books to keep Joanne occupied while he was out. On rare occasions James was able to be away for up to two days while Mrs. Weir stayed at The Pines in a guest room. Gradually Mrs. Weir's difficulties due to strokes increased to the point that James was able to leave the home less often and for only brief periods. No medical assistance or social program help was sought during this period.

July 2009-Oct 2009: In July Mrs. Weir suffered a more severe stroke and fall that resulted in a hospital stay of about 1 week and then a rehab stay of about 3 weeks. She recovered most of her function and was scheduled to return home in early August. Per professional medical advice a feeding tube was surgically inserted the day before her scheduled release. When she awoke the next morning to go home she could not speak or move her limbs. James arrived at 9 am to be trained on the assistance she would need at home. He was shocked to discover the situation had been allowed to continue for several hours without intervention and that his mother was laying in her own fecal matter and urine. Rehab physicians spent considerable time explaining it was an end of life situation despite being apprised of JoAnne's previous stroke recoveries. She was not moved to the hospital despite obvious stroke symptoms until after Mr. Weir said he would call 911. After a week of hospitalization and several weeks of rehab at a nursing home Mrs. Weir's stroke conditions had improved but she was not talking or eating as well as suffering from depression, a C-Diff bacterial infection, and skin ulcers related to prolonged exposure to excrement and urine. In short, after several months of professional care Mr. Weir was again advised his mother's condition was an end of life situation. Mr. Weir was also advised that due to the high amount of care Mrs. Weir would require only a small

number of facilities would accept her as a patient and it would be difficult to place her. Cessation of treatment and feeding were suggested. When he inquired about Mrs. Weir returning home he was told it would be impossible for him to care for her at home. A decision was made to bring her home, continue feeding and medication against all professional advice.

November 2009-March 2010: Mrs. Weir's depression began to lift as soon as she was home. Replacing the professional and institutional care with family and personalized care soon restored her appetite and with assistance she began to eat for pleasure reducing the requirement for tube feeding. The infection and sores were eliminated by a strict hygiene regimen that was apparently not possible in the nursing home which in fact only maintained the standard of care required to be reimbursed by Medicare.

Due to the tremendous amount of effort and time Mr. Weir was required to devote to caring for his mother it was impossible to maintain any income source he had previously depended on. There was no possibility of continuing to work outside the home or even to continue working from his home.

In February 2010 Mr. Weir sought assistance from Hennepin County. A social worker evaluated the situation and Mrs. Weir was approved for 11 hours of home care per day by a paid Personal Care Assistant under the Personal Choice program. A responsible party was appointed to oversee care and approve all hours billed to the program through Accra Care, Inc. Due to program caps only 7.25 of the hours of required care would be paid but anyone the patient and responsible party approved of could provide the care. Mr. Weir decided to provide the care himself and the program approved that arrangement which began in late March 2010. The program was to be renewed every 6 months for a maximum number of hours to be used and paid by the end of that period. Mr. Weir was told the program was very flexible and the hours could be used at any time but no additional hours would be available until after the next 6 month period began. A further stipulation was that no PCA could work more than 269 hours a month. That worked out to about 8 hours per day so there would be no problem if Mrs. Weir's approved 7.25 hours were used daily.

April 2010-December 2011: The arrangement seemed to work exactly as 256B.0659, Subd 18 was intended. Mrs. Weir enjoyed a life in her home and community with care superior to what she received while institutionalized. In July of 2011 Mrs. Weir was hospitalized following a severe stroke in her brain stem. She appeared unconscious, did not speak or respond to speech. Due to the severity and location of the damage the professional medical advice was that feeding, fluids, and medication be ceased immediately as recovery was virtually impossible. Fairview Hospice took over her care and was initially reluctant to allow her to return home but agreed after learning she had received excellent and total care at home for over 21 months. She came home on the 3<sup>rd</sup> day after her admittance to the hospital. Mrs. Weir received professional hospice nurse visits 1 or 2 times per week but the rest of her care was provided by her son James under the PCA choice program. Given her previous recoveries James decided to continue provide nourishment, fluids, and medication through the feeding tube.

Despite the professional opinions Mrs. Weir began to recover and after 2 weeks was graduated from hospice. She began to receive physical, occupational, and speech therapy from Fairview Home Care. Initially this consisted of 1 – 3 visits from each discipline per week to evaluate Mrs. Weir's needs and train James in the recommended therapy techniques. All therapists, nurses and social workers visiting the house commented on the excellent care Mrs. Weir received. She recovered to nearly the same condition as before the July stroke. She graduated home care after about 6 weeks and once again lived a fulfilling life at home and in the community as 256B.0659, Subd 18 intended.

In early November 2011 Mrs. Weir was admitted to the hospital with breathing difficulties which became much worse on the 2<sup>nd</sup> day of her stay. A choice was presented by hospital staff between allowing her to pass away immediately or to schedule her for surgery to clear her lungs. In keeping with Surgery was performed but she was subsequently unable to be removed from a respirator for 3 weeks. Mrs. Weir again returned home under Fairview Hospice care and again defied all expectations by beginning to recover. She was again removed from hospice and began to receive therapy from home care. All her care during her stay at home was provided by her son except for 3 – 4 short visits by home health aids. After two about two weeks of improvement Mrs. Weir suddenly took a turn for the worse. Here lung congestion returned and she suffered a probable stroke. Her breathing was extremely labored and seemed painful. She never regained full consciousness. A decision was made to offer her only palliative care at home under hospice supervision. Except for 2 short visits by home health aide all her care was provided by her son James. She died on December 18<sup>th</sup>, 2011 at home just as she wanted.

### **Hiring Professional Help**

The complexity of Mrs. Weir's condition made hiring professional PCA's a practical impossibility. Her care hours under the PCA program would have been used while James Weir was earning an income outside the home. By necessity a minimum of five PCA's would have to be hired, managed, and supervised

Also this type of work can not be scheduled. Mrs. Weir's needs could occur at any time day or night. PCA's could be scheduled while Mr. Weir was earning a living but he would be responsible for performing all work for 13 hours everyday. Since inevitably there would be a time when none of the PCA's could work Mr. Weir would have to remain home, not report to work, and provide all care himself. Alternatively, a PCA would have to reside in the home and be willing to provide care when needed on a 24 hour basis but a stranger living in the home was impractical given space and privacy concerns.

Once employment begins both family and nonfamily PCA's have the same moral and legal obligations to care for the patient.

The impossibility of managing this situation while maintaining an income was a primary reason Mr. Weir accepted employment caring for his mother. Mr. Weir believes his situation is substantially similar to that of a non-family PCA living in his home.

Mr. Weir believes that given the high quality of care provided and 21 month duration of his employment he should be given the same consideration by this court that any other professional PCA would be given.

### **Moving Mrs. Weir to a Nursing Home**

Mrs. Weir's care during her stays in licensed nursing homes resulted in severe depression and serious illness. The three facilities willing to accept Mrs. Weir's high level of needs while accepting payment by Medical Assistance were judged by Medicare to be below average and by the Health Care Financing Administration to have a potential for more than minimal harm. The less than adequate past care received and the poor ratings of available institutions were a primary consideration in bringing Mrs. Weir home.

Mr. Weir believes the court should consider Mrs. Weir's rights under MN Statute 256B.0659 Personal Care Assistance Program which has the stated purpose of allowing disabled persons to stay in their homes and communities rather than be institutionalized. Those rights should be weighed against the State's legislative interest.

### **Lobbying and Government Interest**

The lobbying history was related to Mr. Weir by a trustee of the Unemployment Insurance Fund. PCA agencies lobbied for removal of all PCA workers from covered employment under unemployment insurance. They reasoned that since the program was administered in the community by the disabled or by a representative of the disabled it would be rife with fraud. The disabled are given a set number of PCA hours to be used over a set 6 month period at which time the case is reviewed by a county social worker. These hours are designed to be flexible so they can be used when needed over the 6 month period. The agencies maintained that the disabled or their representative could conspire with the PCA's to use all the hours at the beginning of the 6 month period with the PCA's going on unemployment until the next period began at which time they would repeat the scenario.

The trustee explained that PCA's are statutory employees and entitled to unemployment. The agencies responded by lobbying for friends and family to be excluded from unemployment as they were even more likely to defraud the system but were told that wouldn't work either. They responded that family members were the most likely to commit unemployment fraud so they should be excluded. The legislature accepted this

argument and enacted Statute 268.035, Subd. 20, (19) dropping family member PCA employment from coverage by unemployment insurance beginning July 1<sup>st</sup>, 2010.

The trustee related that such a fraud had never occurred to his knowledge whether perpetrated by stranger, friend or family PCA's. In discussing the possibility it soon became apparent that such a fraud was not in fact possible. PCA employment would not end when the hours did but rather when the 6 month period ended so piling on all the hours at the beginning of the period would not result in fraudulent unemployment claims. In this particular case the total number of paid hours per month is 228 which is so close to the maximum monthly 275 hours a PCA is allowed to work that such a fraud is really not possible in any case.

Furthermore the unemployment application/appeal process exists as a vehicle for claims of fraud to be brought against individuals by either the state or employers. PCA agencies are in fact required to investigate and report fraud cases. Statute 268.035, Subd. 20, (19) has the effect of relieving the agencies of this requirement by convicting all family member PCA's of unemployment insurance fraud without due process.

It should be noted that payments to PCA agencies were not lowered for family member PCA's even though the agencies no longer accrued unemployment liability.

Being that this fraud has never happened, is apparently not possible, and the unemployment system itself offers an opportunity to allege such fraud within the existing due process there is no legitimate government interest served by this statute.

### **Moral Obligations**

In 2011 the legislature passed Minn. Stat. 256B.0659, Subd. 11, (10) reducing pay for family member PCA's to 80% of that for non-family PCA's which was successfully defended in the Second Judicial District 62-CV-11-8535 by arguing that family had a moral obligation to care for their loved ones and would do so even if their pay was reduced. Cost savings to the state were estimated to be \$17 million dollars per year.

The plaintiff argues that Judge Lindman's ruling relies on the fanciful notion that the families currently carrying the burden of caring for their loved ones will continue to do so no matter what level of assistance they receive from the state when in fact the majority of families already chose to institutionalize their loved ones with Mrs. Weir's level of care and not provide care themselves even prior to the reductions enacted in this statute. According to Fairview Hospice employees such patients are rarely living outside of nursing homes. It is not rational to believe all such disabled not already institutionalized would be allowed to continue to live at home in the face of these cuts. The state could not argue that a 20% reduction in the Medicare and Medical Assistance payments to nursing homes would result in the closure of many and the turning out of the disabled living there.

The state and federal government have assumed the moral obligations previously held by family members. Through Medicare and medical assistance the government provides the care for those psychically and financially unable to care for themselves. Other than with the relationships between parents or grandparents to minor children there is no responsibility for family members to provide care for each other in federal law. If the state now wishes to now assign such moral responsibility to family members it must make some effort to assign this burden equally to all family members. Prior to or coincidentally with reducing payments and benefits for those family members who struggle daily living up to the high moral bar the state has chosen to set it must act against those who shirk those same responsibilities. Judge Lindman's ruling effectively creates a class of family members who accept the moral responsibility to care for loved ones separate from other family who do not and then reduces Medical Assistance available to the disabled they care for without regard to either financial or physical need.

Again once employment begins both family and nonfamily PCA's have the same moral and legal responsibilities to care for their charge and are therefore similarly situated

### **Non-Notification of Removal from Unemployment Insurance Program**

- 1) My PCA employment was covered at the time of hire but a subset of PCAs, including myself, caring for family members were dropped from the unemployment insurance program per Statute 268.035, Subd 20, (19), effective July 1<sup>st</sup>, 2010. I believe both DEED and my employer have an obligation to notify any employee dropped from a program as ubiquitous as unemployment insurance.

Unemployment insurance is a material consideration in accepting or continuing employment and any change should be considered a change in terms of employment requiring notice to be given the employee. Employers and the State even have the option of electing to have noncovered employment considered covered employment (Statute 268.042, Subd 3). Statute 256B.0659 requires PCA employers to obtain unemployment insurance for PCAs in order to be reimbursed by the State.

Prior to my applying for benefits the DEED website informed me that an unemployment account had been established for my SSN. When I contacted Accra Care to inquire specifically about unemployment insurance my noncovered status was not mentioned. There is absolutely no way an employee can know their status or of a change in their status unless informed by the State and/or their employer. Any Minnesotan could therefore lose coverage under unemployment insurance and never know until they are unemployed. The State and my employer

should not be permitted to wait until employment is ended before revealing that an employee has been dropped from the unemployment insurance system.

The lack of notification should be considered fact as it was not challenged at the hearing by the State or Accra Care.

Unemployment Insurance was not created as a benefit to the State or employers but for workers. Any coverage change made solely to benefit the State and employers to the detriment of employees must require a notification. The financial hardship and emotional suffering coming at the same time as a loved one's death are staggering.

The withholding of information regarding my change in status by Accra Care and DEED denied me the opportunity to negotiate with my employer that they elect to have my employment covered by unemployment insurance. I was also denied the possibility of finding another agency which would make such an election or to decide to seek employment in another field altogether for my own protection.

Notification would have been a simple matter for Accra Care or DEED at the time of or prior to my employment changing to noncovered status. When Statute 256B.0659, Subd 11 was enacted in July 2011 to reduce pay for the same subset of family member PCAs I was notified by the State of Minnesota DHS, Hennepin County, and Accra Care by both letter and personal contact prior to the act becoming effective on October 1<sup>st</sup>, 2011. A preliminary injunction was obtained to keep the statute from being enforced. Either by neglect or by design, no such notification effort was made following enactment of 268.035, Subd 20, (19), so there was no opportunity to proceed against this statute as with the pay cut. In this case, silence amounts to a denial of due process.

Wages earned by me from July 1<sup>st</sup>, 2010 when Statute 268.035 became effective to at least November 28<sup>th</sup>, 2011 when I was notified of noncovered status should be considered covered employment.

A ruling on this argument was omitted entirely from the FINDINGS OF FACT AND DECISION. I believe this point is a matter of law and fact, and could be considered in proceedings overseen by an administrative law judge.

Statute 256B.0659

Subd 19 c, The duties of the personal care assistance choice provider agency are to:

- (1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including, but not limited to, purchasing and maintaining workers' compensation, unemployment insurance,

surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including, but not limited to, workers' compensation and unemployment insurance.

Subd. 24, Personal care assistance provider agency; general duties: .A personal care assistance provider agency shall:

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

Statute 256B.0659 requires Agencies to maintain unemployment insurance for PCA's to receive reimbursement for PCA services. Statute 268.044, Subd 3 allows election to have noncovered employment considered covered employment.

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### **Equal Protection, Rational Basis, Due Process**

**A.** Mr. Weir believes his situation as a family member PCA's is substantially similar to a nonfamily member PCA and he should not be included in a separate class for the purpose of reducing benefits paid for under the unemployment insurance program by his employer or the benefits paid by the state for his mother under the Personal Choice program funded by Medicare.

**B.** There was no other viable care option provided by the state given Mrs. Weir's high needs and the lack of adequate nursing home facilities willing to accept her care for what Medical Assistance would pay. The care Mrs. Weir received from her son was markedly superior and more effective than the professional care provided during her nursing home stays. A live in aid would be needed to provide adequate care in the home given the large number of hours approved for Mrs. Weir's care by the state. Mr. Weir's situation is substantially similar to that of a live in PCA, however only a relative would work 11 hours per day for 7 hours of pay with the requirement they be on the premises 24 hour a day, 7 days a week, 365 days a year doing work that is difficult, dirty, and dangerous.

**C.** 42 USC 1396a(23)(A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization

which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services,

When such services are available only from a family member the state should not be allowed to reduce payments and benefits to family member PCA's unless the same cuts are imposed on every PCA. If the state cannot provide the same care being provided by a family member the state should not be able to cut payments and benefits without considering whether such cuts would force a disabled person into a nursing home.

**D.** The state has assumed all obligations regarding the care of disabled persons who are physically and financially unable to care for themselves. . The state should not be allowed to impose cost savings due to "moral obligations" on family members caring for their loved ones before they are imposed on those who shirk or fail those same obligations.

To propose cuts to family member PCA's because they will continue to provide care no matter what they are compensated is fanciful given that the vast majority of families already choose to institutionalize their loved ones with needs as large as Mrs. Weir's even at the previous higher compensation rate and with unemployment insurance protection. The state should not be allowed to impose cost savings due to "moral obligations" on family members caring for their loved ones before they are imposed on those who shirk or fail those same obligations. Family member PCA's are performing care work which the state is obligated to provide.

**E.** A moral obligation is a matter of personal conscience and can not be discussed legally, constitutionally, or rationally and therefore a statute based on such an obligation should fail the rational basis test for equal protection unless applied to all those with the same obligation.

**F.** The fraud the legislature is trying to prevent by removing family member PCA's from the unemployment insurance program has apparently never happened, is not possible in this case, and can be addressed by the state or employers within the current due process. There is therefore no permitted legislative interest involved.

**G.** 28 C.F.R. 35.130(d) A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

Courts have held that segregation and isolation resulting from institutionalization are discrimination not permitted by the Americans with Disabilities Act.

Indeed, the legislative history makes clear that Congress considered the provision of segregated services to individuals with disabilities. See S.Rep. No. 101-116 form of discrimination prohibited by the ADA at 20 (1989) (noting "compelling need to provide a clear and comprehensive national mandate for the integration of persons with disabilities into the economic and social mainstream

of American life”); H.R.Rep. No. 101-485, pt. 2 at 29 (1990), reprinted in 1990 U.S.C.C.A.N. 267, 310 (listing “segregation” as a form of “[d]iscrimination against people with disabilities”); H.R. Rep. No. 101-485, pt. 3 at 26 (1990), reprinted in 1990 U.S.C.C.A.N. at 449 (“The ADA is a comprehensive piece of civil rights legislation which promises a new future: a future of inclusion and integration, and the end of exclusion and segregation.”).

In enacting the ADA, Congress determined that discrimination against individuals with disabilities persists in a wide variety of areas of social life, including “institutionalization,” *Zimrig v. Olmstead*, 97-8538(11<sup>th</sup> Cir. 1998)

In a case such as this where the state can offer no alternative to family member PCA care other than institutionalization the plaintiff holds that the state may not make any reduction to pay and benefits which would tend to increase the likelihood of a disabled person being segregated and isolated in an institutional setting.

**H.** Failure to notify the plaintiff of removal from the unemployment insurance program and using alleged increased fraud among family member PCA’s to justify that removal is put forward as a violation of Mr. Weir’s due process rights.

**I.** Effectively convicting all family member PCA’s of unemployment insurance fraud without due process when there exist a due process for such fraud claims to be pursued by either the state or employer

The plaintiff therefore believes neither Statute 268.035, Subd. 20, (19) regarding unemployment insurance or Statute 256B.0659, Subd. 11, (10) regarding reduced pay for family member PCA’s survives the rational basis test for equal protection or due process challenges.

### **Rational Basis Test with “Bite”**

Mr. Weir further believes the standard the court should use would be similar to that used in *Plyler v. Doe*, 457 U.S. 202 (1982); *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985); and *Romer v. Evans*, 517 U.S. 620 (1996) where the SCOTUS has weighed the state’s weaker interests against the substantial damage to the sympathetic plaintiffs and ruled the laws which would otherwise pass a rational basis test did violate equal protection rights.

In this case since the cost savings are insignificant and the unemployment fraud nonexistent while the institutionalization of the disabled being cared for by family member PCA’s due to the state’s failure to provide another alternative so damaging

**Desired Rulings**

Mr. Weir requests the court find Statute 268.035, Subd. 20, (19) and Statute 256B.0659, Subd. 11, (10) unconstitutional in a fashion forceful enough to prevent future attempts to discriminate against family member PCA's especially where discontinuation of their service would virtually guarantee institutionalization of the disabled person they care for.



Unemployment Insurance  
*Minnesota*

Document ID: 119909778



119909778

02/09/2012

JAMES M WEIR  
6521 12TH AVE S  
RICHFIELD MN 55423-1715

Issue Identification Number: 29098705-2

**NOTICE OF DECISION  
OF THE UNEMPLOYMENT LAW JUDGE**

Under Minnesota Statutes 268.105, subdivision 1 , the enclosed decision of the Unemployment Law Judge is served on you.

**NOTICE TO THE PARTIES:** The law of the State of Minnesota at Minnesota Statutes 268.105, subdivision 5a, provides that the findings of fact and decision issued are only for unemployment insurance benefit entitlement purposes and do not affect any other legal or contractual matter.

**ALSO MAILED TO:**

ACCRA CARE INC , EMPLOYER



Unemployment Insurance  
*Minnesota*

Document ID: 119909778

In the Matter of:

JAMES WEIR ,

Applicant,

AND

ACCRA CARE INC ,

Employer.

**FINDINGS OF FACT  
AND DECISION**

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An evidentiary hearing, under Minnesota Statutes 268.105, subdivision 1, was conducted on Tuesday, January 31, 2012 , as a result of the Applicant 's appeal from a Determination of Ineligibility issued on Thursday, December 29, 2011 .

**ISSUE(S)**

Whether the applicant's employment is considered #non-covered# employment.

**FINDINGS OF FACT**

James Weir was employed with Accra Care, Inc. as a personal care attendant. Accra Care is a personal care assistance provider agency. Weir provided services to his mother through Accra Care under Minnesota Statute section 256B.0659.

**REASONS FOR DECISION**

Minnesota Statutes, Section 268.035 subdivision 20(19) provides that #non-covered employment# includes employment for a personal care assistance provider agency by an immediate family member of a recipient who provides the direct care to the recipient through the personal care assistance program under Minnesota Statute section 256B.0659. Minnesota Statutes, Section 268.035 subdivision 19a defines, "immediate family member" as an individual's spouse, parent, stepparent, grandparent, son or daughter, stepson or stepdaughter, or grandson or granddaughter. In this case, Weir provided services for the personal care assistance provider agency Accra Care under Minnesota Statute section 256B.0659. The services he provided were for his mother. Therefore, his employment is non-covered employment.



Unemployment Insurance  
*Minnesota*

Document ID: 119909778

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**DECISION**

Employment provided to James Weir by Accra Care, Inc. is non-covered employment.

This determination results in an overpayment of unemployment benefits in the amount of \$0.00 . To view your overpayment details, log into your account at [www.uimn.org](http://www.uimn.org). The Unemployment Insurance Program will take action to collect the overpaid unemployment benefits.

Dated: Wednesday, February 8, 2012      Bryan Eng  
Unemployment Law Judge

**OTHER NOTES:**

An unemployment law judge is considered an administrative law judge. A ULJ does not have the authority to issue a decision rendering a statute unconstitutional.

You have 1 pending issue(s) that may affect your eligibility for benefits.

Issue ID:  
28849864-1 Actively Seeking

Login to your account at [www.uimn.org](http://www.uimn.org) to check the status of the other issue(s).

If you have any questions about this decision, you may contact the the Unemployment Insurance Program. You must have your Issue Identification Number available when you call.

It is important for you to request benefits according to your assigned schedule during the reconsideration process. If the decision is in your favor, you will be paid for weeks that you have properly requested, provided all the other eligibility requirements are met.

**REQUEST FOR RECONSIDERATION**

If you believe this decision is factually or legally incorrect, you may request the unemployment law judge to reconsider the decision. You may do this by logging in to your account at [www.uimn.org](http://www.uimn.org), by fax, or by mail (fax number and address are listed at the bottom of this page). A request for reconsideration must include the issue identification number.

Under MN Statute 268.105, subd.2, this decision will be final unless a request for reconsideration is filed with the unemployment law judge on or before Wednesday, February 29, 2012 .

STATE OF MINNESOTA  
IN COURT OF APPEALS

OFFICE OF  
APPELLATE COURTS

APR 27 2012

CASE TITLE:

JAMES WEIR  
Relator (your name)

PETITION FOR WRIT OF  
CERTIORARI

**FILED**

vs.

COURT OF APPEALS #: A12-764

1) ACCRA CARE INC,  
Respondent (employer's name),

DEPARTMENT OF  
EMPLOYMENT & ECONOMIC  
DEVELOPMENT #:29098705-2

2) Department of Employment & Economic  
Development,  
Respondent

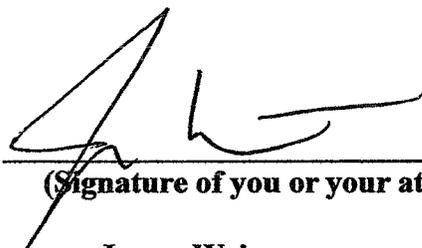
DATE OF DECISION: 02/09/2012

TO: The Court of Appeals of the State of Minnesota:

JAMES WEIR (your name) hereby petitions the Court of Appeals for a Writ of Certiorari pursuant to Minn. Stat. § 268.105, subd. 7, to review a decision of the unemployment law judge issued on the date noted above, upon the grounds that the state and my employer should not be permitted to wait until employment is ended before revealing I had been dropped from the Unemployment Insurance program. Also Statute 268.035 violates the Minnesota Constitution and the rights of the disabled under Minnesota Statute 256B.0659.

(Summarize why you are appealing. You will make a detailed argument in your brief that you will be filing later.)

DATED: April 26, 2012 \_\_\_\_\_

  
\_\_\_\_\_  
(Signature of you or your attorney)

James Weir  
(Print your name)

(Address)

\_\_\_\_\_  
6521 12<sup>th</sup> Ave S;  
\_\_\_\_\_  
Richfield, MN 55423  
\_\_\_\_\_  
612-866-5285  
(Telephone number)

STATE OF MINNESOTA

IN COURT OF APPEALS

OFFICE OF  
APPELLATE COURTS

APR 27 2012

FILED

CASE TITLE:

JAMES WEIR,  
Relator (your name)

WRIT OF CERTIORARI

vs.

COURT OF APPEALS #: A12-764

1) ACCRA CARE INC,  
Respondent (employer's name),

DEPARTMENT OF  
EMPLOYMENT & ECONOMIC  
DEVELOPMENT #: 29098705-2

2) Department of Employment & Economic  
Development  
Respondent.

DATE OF DECISION: 02/09/2012

TO: Department of Employment & Economic Development:

You are hereby ordered to return to the Court of Appeals and serve on all parties in accordance with rule 115.04, subdivision 3, within 30 days after service of the petition or 14 days after delivery of a transcript, whichever is later, an itemized statement of the record, exhibits and proceedings in the above-entitled matter so that this court may review the decision of the unemployment law judge issued on the date noted above.

You are further directed to retain the actual record, exhibits, and transcript of proceedings (if any) until requested by the Clerk of the Appellate Courts to deliver them in accordance with rule 115.04, subdivision 5.

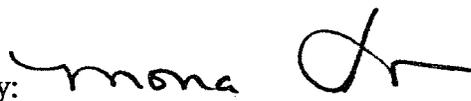
Copies of this writ and accompanying petition shall be served forthwith either personally or by mail upon the respondent Department of Employment & Economic Development and upon the respondent or its attorney at:

1011 1<sup>st</sup> Street S #315; Hopkins, MN 55343

(address of employer or its attorney if it has one)

Proof of service shall be filed with the Clerk of the Appellate Courts.

DATED: 4/27/12  
Clerk of the Appellate Courts

By:   
Assistant Clerk