

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

THE ASSOCIATION OF RESIDENTIAL
RESOURCES IN MINNESOTA (ARRM), a
Minnesota nonprofit corporation, *on behalf of
its members*,

Civil NO. 03-2438 (JRT/FLN)

and

MARY RODENBERG-ROBERTS,
as Guardian **and** Parent of
Amari Roberts,

Plaintiffs,

v.

**TEMPORARY RESTRAINING
ORDER**

MINNESOTA COMMISSIONER OF
HUMAN SERVICES, KEVIN GOODNO, *in
his official capacity*,

and

SHIRLEY PATTERSON,
in her official capacity as
Disability Services Division Director of the
Minnesota Department of Human Services,

and

DAVID DUPRE,
in his official capacity as
Acting Director of Region V of the Centers
for Medicare and Medicaid Services,

Defendants.

FILED _____
RICHARD D. SLETTER, CLERK
JUDGMENT ENTD. _____
DEPUTY CLERK _____

Samuel D. Orbovich, ORBOVICH & GARTNER, 408 St Peter Street, Suite 417, St Paul, MN 55102-1187, for plaintiffs.

Perry Sekus, Assistant United States Attorney, UNITED STATES ATTORNEY'S OFFICE, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415; and Margaret Chutich and Suzette Schommer, Assistant Attorneys General, MINNESOTA ATTORNEY GENERAL'S OFFICE, 445 Minnesota Street, St. Paul, MN 55101, for defendants.

Plaintiffs have requested a temporary restraining order pursuant to Rule 65(b), Fed. R. Civ. P. The Court held a telephone hearing on March 14, 2003, at which all parties were represented by counsel.

The Court considered the complaint, the motion, other written submissions of plaintiffs, and the arguments of the parties. For the reasons set forth below, the Court grants me following temporary restraining order intended to maintain the status quo until the Court can consider plaintiffs' motion following full briefing and a hearing..

Plaintiff *ARRM* (Association of Residential Resources in Minnesota) is a non-profit trade association of providers of residential and support services for Minnesota citizens with developmental disabilities. Plaintiff Mary Rodenberg-Roberts is the guardian and parent of Amari Roberts, who is an eleven-year-old child with developmental disabilities. Amari receives home and community-based care through one of ARRM's members, and was recently informed mat payments to her service provider will be reduced by 7% and she will receive a reduction in service hours.

Defendants Kevin Goodno is Commissioner of Human Services for the State of Minnesota and Shirley Patterson is an official at the Minnesota Department of Human Services ("State defendants"). Both are responsible for Minnesota's administration of the federal Medicaid plan and supervision of the Home and Community-Based Service program. Defendant David Dupre is the Acting Director of Region V of the Centers for Medicare and Medicaid Services.

Plaintiffs allege that an administrative order implemented by the state defendants violates several federal statutory and constitutional rights. The administrative order (the 'rebasement order') purports to "rebase" or reallocate funds for the Home and Community-Based Service program. Plaintiffs claim, among other claims, that the order materially and substantially restructures the scope and extent of Home and Community-Based services offered to Minnesotans with developmental disabilities; that the state based the rebasement order on improper and insufficient data; and the rebasement order represents an arbitrary and capricious reduction in benefits to many qualified beneficiaries, including plaintiffs.

For the purpose of preserving the status quo as much as possible, and minimizing the possibility of irreparable harm until the Court has had an opportunity to rule on plaintiffs' motion for injunctive relief, the Court issues the following order.

Based upon all of the files, records, and proceedings herein, and upon the argument of counsel, **IT IS HEREBY ORDERED** that:

1. Plaintiffs motion for a temporary restraining order [Docket No. 3] is **GRANTED IN PART.**

2. Until further order of this Court granting or refusing a preliminary injunction or dissolving this Temporary Restraining Order, a temporary restraining order is hereby entered as follows: .

a. State defendants shall take all necessary steps to insure that no reduction in payments to individual beneficiaries results from the challenged order;

b. State defendants shall direct all participating Counties to refrain from making or finalizing prospective changes in provider contracts based on the administrative rebasement order. Nothing in this order requires Counties that have already renegotiated provider contracts to rescind those contracts.

3. In accordance with Rule 65(c) of the Federal Rules of Civil Procedure, plaintiffs shall post a bond with the Clerk in the amount of \$5,000.00 for the payment of such costs and damages as may be incurred or suffered by defendants in the event defendants are found to have been wrongfully enjoined or restrained.

4. No party may take any future action inconsistent with this Order.

5. A hearing on plaintiffs' motion is set for April 2, 2003 at 11:00 a.m. in Courtroom 13E of the United States Courthouse in Minneapolis.

DATED: March 14, 2003
at Minneapolis, Minnesota.

A handwritten signature in black ink, reading "John R. Tunheim". The signature is fluid and cursive, with a long horizontal stroke at the end.

JOHN R. TUNHEIM
United States District Judge