

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE  
7TH JUDICIAL CIRCUIT

MEGAN SMITH, *et al*, on behalf  
of themselves and all others similarly  
situated,

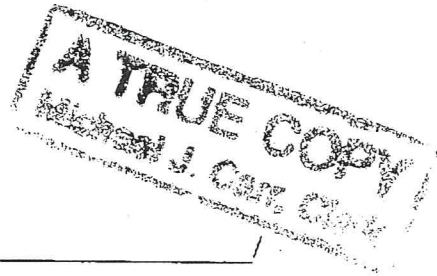
Plaintiff,

No. 11-97052-CZ  
Judge Geoffrey Neithercut

vs.

MAURA CORRIGAN, in her official  
capacity as DIRECTOR OF THE  
MICHIGAN DEPARTMENT OF  
HUMAN SERVICES,

Defendant.



**OPINION AND ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY  
DISPOSITION, GRANTING PLAINTIFFS' MOTION FOR SUMMARY  
DISPOSITION, DENYING MOTION FOR RECONSIDERATION, AND  
DENYING MOTION FOR SANCTIONS**

At a session of said court  
held at the Court House in the  
City of Flint on the  
Tuesday, March 27, 2012.

Present: The Honorable Geoffrey L. Neithercut, Circuit Judge.

**Opinion in Brief:**

This Court determines that Defendant Maura Corrigan as the Director of the Michigan Department of Human Services exceeded her authority by limiting the Plaintiff Class from receiving benefits under the Social Welfare Act for more than 60 months.

While this Court strongly agrees that in most instances government welfare should be temporary and should be designed to facilitate independence, that is not the instance before this Court. Before this Court is a Class of recipients who were designated by the Michigan State Legislature to be exempt from being removed from receiving benefits under specific provisions of the Social Welfare Act. The Legislature deemed the Plaintiff

Class as exempt because attempting to force the Class into independence would undoubtedly fail and would only lead to hardship. Accordingly, as fully explained below, this Court determines that when the Defendant determined that the Class should be limited to a total of 60 months of benefits, she interfered with the authority of the Michigan Legislature in violation of the Separation of Powers Doctrine.

### **Procedural History:**

Plaintiffs Megan Smith, *et al*, on behalf of themselves and all other similarly situated individuals, filed a complaint with this Court on October 28, 2011. Plaintiffs allege that a 60 month limit on benefits violates the Social Welfare Act and that as many as 35,000 families could be left without a sufficient government safety net. On that same date Plaintiffs also filed a motion requesting class certification and a motion for preliminary injunction/temporary restraining order to stop the implementation of the 60 month limitation.

Oral arguments were held on October 31, 2011 on Plaintiffs' motions. This Court granted the Plaintiffs' motions for class certification and for preliminary injunction. This Court denied Defendant's request for a stay pending appeal.

Defendant Maura Corrigan, in her official capacity as Director of the Michigan Department of Human Services, filed an application to appeal this Court's decisions on with the Court of Appeals on October 31, 2011. On November 3, 2011 the Court of Appeals issued an order which reversed and vacated this Court's granting of Plaintiffs' motion for preliminary injunction. The case was remanded back to this Court for further proceedings.

On November 18, 2011 Defendant filed a motion asking this Court to reconsider the request for class certification along with a motion for summary disposition. Plaintiffs filed their own dispositive motion on November 21, 2011.

On December 5, 2011 Defendant filed a motion for sanctions along with a response brief to Plaintiffs' dispositive motion. On December 8, 2011 Plaintiffs filed a response to Defendant's motion for sanctions along with a response brief to Defendant's dispositive motion.

Oral arguments were held on December 12, 2011. In this Court's view, the Plaintiffs only have a cause of action if the benefits provided by the Social Welfare Act are an entitlement. A party certainly has no right to something that he or she is not entitled to be given. Furthermore, even if the benefits are an entitlement, this Court would determine that the Plaintiffs would have no cause of action if the Defendant had the legal authority to limit the Class from receiving benefits to no more than 60 months.

Accordingly, this Court requested additional briefing on those two main issues. First, whether or not the Social Welfare Act creates an entitlement to the Plaintiff Class.

Second, if such an entitlement exists, did the Defendant have the authority to limit the entitlement to a total of 60 months?

### **Opinion - Entitlement:**

This Court determines the Social Welfare Act does create entitlement to the program as required by MCL 400.57d(4). In relevant part it reads,

If the individual is complying with the family self-sufficiency plan... the family independence program assistance group *shall* continue to receive family independence program assistance so long as the recipients meet family independence program assistance requirements.<sup>1</sup>

It is clear to this Court that if an individual is complying with the plan, he or she "shall" receive assistance. Accordingly, such an individual is entitled to receive assistance as long as he or she also "meet(s) family independence program assistance requirements."

Accordingly, as there is no dispute that the Plaintiff Class is following the requirements of the Social Welfare Act, and the only impediment to their receiving benefits is the Director's 60 month rule at issue, this Court determines that the Social Welfare Act does create an entitlement for the Plaintiff Class.

### **Opinion - Defendant's Authority:**

The next question is whether Defendant Maura Corrigan has the authority to limit access to benefits to no more than 60 months. This Court determines that while Defendant does have limited authority under MCL 400.57a(3) to create rules under the Social Welfare Act., that Defendant exceeded her authority in this instance based upon the separation of powers doctrine.

The relevant portion of the statute which gives the Defendant authority reads as follows:

(3) The department shall establish income and asset levels for eligibility, types of income and assets to be considered in making eligibility determinations, payment standards, composition of the program group and the family independence program assistance group, program budgeting and accounting methods, and client reporting requirements to meet the following goals:

(a) Efficient, fair, cost-effective administration of the family independence program.

---

<sup>1</sup> Emphasis added.



(b) Provision of family independence program assistance to families willing to work toward eventual self-sufficiency.

It is clear to this Court that (3) gives the Defendant authority to establish the composition of the program and family independence program assistance groups along with the authority to establish budgeting and accounting methods for the program. However, it is also clear that (3) does not give the Defendant authority to impose additional time limits.

Furthermore, while MCL 400.57f(6) gives the Defendant authority to promulgate rules, it limits such authority to only expand new exceptions under MCL 400.57f(3), not eliminating exceptions. Additionally, while MCL 400.57g(6) gives the Defendant authority to promulgate rules, it limits such authority to only expanding good cause to allow participants to avoid punishment for noncompliance, not narrowing what constitutes good cause. Clearly nothing in the Act gives the Defendant the authority to contradict the Act itself.

Pursuant to MCL 400.57e(1)(h) participation in the JET program is limited to 48 months. The purpose of such a limitation is obvious. It ensures independence from rather than dependence upon government assistance. This Court strongly agrees that independence should be a goal of any assistance program.

However, there are limitations. The Michigan Legislature recognized that there are some situations where forcing people and families off of assistance simply cannot lead to independence, but only to hardship. Pursuant to MCL 400.57f(3), *et seq*, the Plaintiff Class are exempt from participation in the JET program. Pursuant to MCL 400.57p "any month in which" the Plaintiff Class "has been exempted from the JET program under section 57f(3)... shall not be counted toward the cumulative total of 48 months in a lifetime for family independence program assistance." And lastly, MCL 400.57d(4) provides that assistance will be offered indefinitely as long as the participants are within compliance. These exceptions make sense. For example, a person who is disabled from being able to work<sup>2</sup> clearly cannot be made independent by legislative or departmental slight of hand.

However, Defendant's rule limits all participants to only 60 months of benefits, regardless of the exceptions found in MCL 400.57f(3). The Legislature of Michigan recognized the futility of any such limitation, but the Director has decided to do a run-around of the Legislature. Clearly, creating a rule which contradicts the purpose of the Legislature violates the separation of powers doctrine.

Article 3, § 2 of the 1963 Constitution provides:

---

<sup>2</sup> MCL 400.57f(3)(C)

The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

The Court of Appeals has held that the "section makes it clear that the three government branches are to be separate and coequal." *Beadling v. Governor, State of Mich.*, 106 Mich.App. 530, 536 (1981)

Accordingly, this Court determines that Defendant Maura Corrigan, in her official capacity as the Director of the Michigan Department of Human Services, exceeded her authority to implement the 60 month limitation on the Plaintiff Class members. Based on the forgoing, this Court grants the Plaintiffs' Motion for Summary Disposition.

#### **Opinion - Reconsideration of Class certification:**

After considering Defendant's Motion it plainly appears to the Court from the face of the material that it is not entitled to relief as the Defendant is merely presenting the same issues ruled by this Court, any new issues presented are without merit, and no palpable error was demonstrated. Additionally, this Court finds no basis to give the Plaintiff a second chance pursuant to the holding of *Smith v. Sinai Hospital of Detroit*.<sup>3</sup>

#### **Opinion - Sanctions:**

Based upon the forgoing, this Court determines that the complaint and motions filed by the Plaintiff Class via their attorneys were not frivolous under MCR 2.114, *et al*, MCR 2.625, *et al*, and MCL 600.2591 and that no sanctions are warranted. This Court determines that Plaintiffs did not file their complaint to harass, embarrass, or injure the defendants, but filed it to protect their own interests. Furthermore, this Court does not find that the plaintiffs had no reasonable basis to believe that the facts supporting their claim were false or that their positions were devoid of arguable legal merit.<sup>4</sup>

#### **Orders:**

IT IS ORDERED that Defendant Maura Corrigan's, in her official capacity of the Director of the Michigan Department of Human Services, Motion for Summary Disposition is DENIED, for all the reasons stated above.

IT IS FURTHER ORDERED that Plaintiffs' Megan Smith's, *et al*, Motion for Summary Disposition is GRANTED, for all the reasons stated above.

IT IS FURTHER ORDERED that Defendant's Motion for Reconsideration as to Class certification is DENIED, for all the reasons stated above.

<sup>3</sup> 152 Mich. App. 716, at 723 (1986).

<sup>4</sup> *Cvengros v. Farm Bureau Ins.*, 216 Mich App 261, 266 (1996); MCL 600.2591

IT IS FURTHER ORDERED that Defendant's Motion for Sanctions is DENIED for all the reasons stated above.

IT IS FURTHER ORDERED that this is a final order closing this case.

Dated: March 27, 2012 Geoffrey L. Neithercut  
Hon. Geoffrey L. Neithercut