

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

MOLLY KEITH,

Petitioner,

v.

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES and
NANCY MONTANEZ, DIRECTOR

Respondents.

Case No. CI 04-3591

MOTION TO STAY

**This is a COPY
Original filed by the
CLERK DISTRICT COURT
of Lancaster County, NE
on**

SEP 15 2004

COMES NOW the Petitioner by and through her attorney of record and pursuant to Neb. Rev. Stat. § 84-917, and moves this Court to enter a Stay preventing the Respondents from sanctioning the Petitioner and from collecting on any alleged Aid to Dependent Children (ADC) overpayment until a final order is entered in this case. In support of her motion, the Petitioner provides the following:

1. The Petitioner is a single mother with two children, Catherine, age 2, and Preston, age 1. She is not presently employed and is receiving cash assistance through the ADC program.
2. The Petitioner only receives \$364.00 a month in ADC cash assistance.
3. Without a stay, the Respondents will implement the decision of the hearing officer. Petitioner may be placed under a sanction and lose her entire ADC grant, her Medicaid, and her Food Stamps, for one month or until she comes into compliance whichever is longer.
4. The loss of the ADC grant and Ms. Keith's Medicaid and Food Stamps for even one month will cause irreparable harm and extreme hardship on Ms. Keith and her two children.

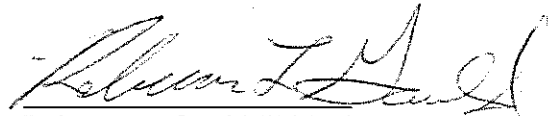
5. The Respondents will not be harmed by waiting to impose a sanction until a final order is entered in this case. In the event that the Petitioner is unsuccessful in her appeal, the Respondents will still be allowed to collect any overpayments made to the Petitioner.
6. Although Petitioner received a notice on August 28, 2004 saying that a sanction would not go into effect until October 1, 2004, the Respondents sent a second notice on September 4, 2004 saying that the sanction was going into effect September 1, 2004.
7. Petitioner has not received an ADC grant for the month of September, 2004.
8. Petitioner's counsel requested a Stay from the Respondents and was denied.
9. Petitioner requests a hearing on this motion as soon as possible.
10. Affidavits will be used at the hearing.

WHEREFORE the Petitioner respectfully requests that this Court grant her Motion to Stay and order that the Respondents shall not impose a sanction or recover any overpayments until after a final order has been entered in this case.

DATED: September 15, 2004

MOLLY KEITH, Petitioner

By:

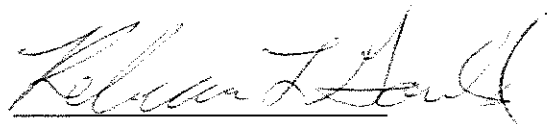


Rebecca L. Gould #22246
Nebraska Appleseed Center
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941 O Street, Suite 105
Lincoln, NE 68508
(402) 438-8853

NOTICE OF HEARING

You are hereby notified that a hearing has been set on the Petitioner's Motion to Stay before the Honorable Earl J. Witthoff, Judge of the District Court of Lancaster County, in Court Room # 33, 575 S 10th St., Lincoln, Nebraska, on the 8th day of October, 2004, at 10:15 A.M., or as soon thereafter as counsel may be heard. Affidavits will be used at the hearing.

By:

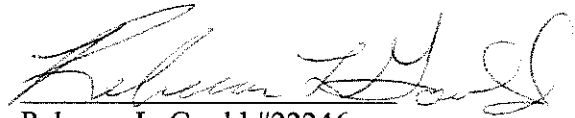


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Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that a true and accurate copy of this Motion to Stay, Notice of Hearing and Proposed Order were served on the Respondents via United States First Class Mail to the Respondents' counsel Royce Harper, Assistant Attorney General, 2115 State Capitol, Lincoln, NE 68509, and Gail Steen, Legal Counsel for NDHHS, P.O. Box 95026, Lincoln, NE 68509 on September 15, 2004.

By:



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