

MAR 08 2004

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

Heidi Lynn Austin, Tracy Remington,
Donna Palozie, Helen Hinton, Ellen
Abare and Shawntale Lynnette Harrison
on their own behalf and on behalf of all
others similarly situated,

File No. 62-C8-03-7163

Plaintiffs,

ORDER REGARDING
CROSS-MOTIONS FOR
SUMMARY JUDGMENT

vs.

Kevin Goodno, in his official capacity as
Commissioner, Minnesota Department
of Human Services,

Defendant.

The above-entitled matter came on for a hearing before the Honorable Judith M. Tilsen, Judge of District Court at the Ramsey County Courthouse in St. Paul, Minnesota, on December 3, 2003 at 9:30 a.m. for cross-motions for summary judgment.

Plaintiffs were represented by Mid-Minnesota Legal Assistance, Ralonda J. Mason, Esq. Defendant was represented by Assistant Attorney General, Patricia A. Sonnenberg, Esq.

Based upon the files, records and proceeding herein, the Court makes the following:

FINDINGS OF FACT

1. The material facts, which form the bases for this action, are not in dispute.
2. Plaintiffs are recipients of welfare benefits through the Minnesota Family Investment Program ("MFIP") who suffered grant reductions and loss of income as a result of three 2003 legislative changes to the MFIP program.
3. The reduction of MFIP benefits has a serious and substantial impact on Plaintiffs and

their families given their very low incomes. These reductions can and do create financial crisis in the Plaintiffs' families.

4. The three 2003 MFIP legislative amendments, which Plaintiffs contest in this action, are (1) Minn. Stat. § 256J.37 Subd. 3(b), deducting \$125 from the MFIP grant because a household member receives Supplemental Security Income ("SSI") to be effective July 1, 2003 by the language of the legislation; (2) Minn. Stat. § 256J.37 Subd. 3(a), counting up to \$50 of a HUD-funded housing subsidy as unearned income to be effective July 1, 2003 by the language of the legislation; and (3) Minn. Stat. § 256J.24 Subd. 10, reducing the MFIP exit level to 115 percent of poverty with the corresponding reduction in earned income disregard to be implemented in October by the language of the legislation.
5. Defendant, the Commissioner of the Minnesota Department of Human Services ("DHS"), who is responsible for administering the MFIP program, implemented some of the legislative changes beginning July 1, 2003.
6. Minnesota has operated its MFIP since 1994. Minnesota's MFIP plan combines cash grants funded in part by the United States Department of Health and Human Services and food stamp allotments funded totally by the United States Department of Agriculture ("USDA").
7. MFIP combines eligibility for and the distribution of grants for cash and food stamps. The program operates under exceptions to the Food Stamp Act, which require a waiver from the USDA. 7 U.S.C. §§ 2026 and 2031.
8. Minnesota has operated MFIP with over 20 waivers from the USDA since 1994.
9. Defendant sent a letter on June 25, 2003, to the USDA informing the USDA of the MFIP changes.

10. Defendant implemented the three 2003 amendments to MFIP at issue here prior to receiving approval from the USDA.
11. This Court entered a Temporary Restraining Order in this matter on July 1, 2003, enjoining the Defendant from implementing the legislative changes until the USDA had acted on the Defendant's letter or further order of the Court.
12. The USDA, by letter of July 16, 2003, informed the Department of Human Services "that the impact of the changes [in the 2003 amendments] would fall within the tolerance of Section 17(b) of the Food Stamp Act." Letter from Kate Coler to Maria R. Gomez.
13. This Court vacated the Temporary Restraining Order on July 18, 2003.

CONCLUSIONS OF LAW

1. Plaintiffs' rights are affected by the construction of the federal and state statutes under consideration.
2. Defendant was attempting to comply with the Minnesota legislative effective dates when he implemented the changes. However, the Act and corresponding Terms and Conditions of the Minnesota program require DHS to communicate with USDA prior to the implementation of change, to review the impact of the changes on MFIP and food benefits, and determine whether changes to the waivers provisions of the Food Stamp Act are necessary. 7 U.S.C. §§ 2026 and 2031.
3. The Defendant is required to follow the commands of the Food Stamp Act or to file a written application with the USDA seeking approval to deviate from the Food Stamp Act. Defendant is not permitted to implement changes in food stamp waivers without the express prior written approval from the USDA, or a statement that a change in the food stamp waiver is not required.

4. The USDA did provide a statement that no changes in the food stamp waivers are required for the changes at issue on July 16, 2003. Therefore, the Defendant was free to legally implement these changes after July 16, 2003.
5. The Defendant could implement Minn. Stat. § 256J.37 Subd. 3(b) effective August 1, 2003. This would allow a deduction of \$125 from the MFIP grant received in August because a household member receives SSI.
6. The Defendant could implement Minn. Stat. § 256J.37 Subd. 3(a) effective August 1, 2003. This would allow the counting of up to \$50 of a HUD-funded housing subsidy as unearned income. This effective date would be reflected in the October grant.
7. The Defendant could implement Minn. Stat. § 256J.24 Subd. 10 effective after July 16, 2003. This would not change the effective date of reduction of the MFIP exit level to 115 percent of poverty with the corresponding reduction in earned income disregard.
8. It would be contrary to law for the Defendant to charge the Plaintiff class members with an overpayment or otherwise seek to recoup benefits issued pursuant to the Court's Order as those payments were not assistance payments that were greater than the amount for which the assistance unit was eligible. Minn. Stat. § 2565.08 Subd. 63 (2002).
9. There is insufficient evidence to support the conclusion that the events giving rise to Plaintiff's Complaint are likely to reoccur. Rather this Court will assume, without evidence to the contrary, the Defendant will follow the law.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Defendant and his agents are enjoined from failing to recalculate income for July for persons in HUD-subsidized housing without counting up to \$50 of the housing subsidy as unearned income and from failing to refund reductions to September grants because of

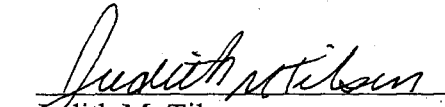
the counting of housing subsidies in July as income.

2. Such refunds shall be provided to Plaintiff class members no later than thirty (30) days from the date of this Order.
3. The Defendant and his agents are enjoined from charging the Plaintiff class members with an overpayment or otherwise seeking to recoup benefits issued pursuant to the orders of this Court.

IT IS SO ORDERED.

Dated: _____

February 27, 2004


Judith M. Tilsen
Judge of District Court