

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

A.M.T., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:10-cv-0358-SEB-TAB
)	
ANNE WALTERMANN MURPHY, <i>et al.</i> ,)	
)	
Defendants.)	

MOTION FOR PRELIMINARY INJUNCTION

COME NOW Plaintiffs and the putative class, by counsel, and respectfully move this Court for a preliminary injunction in this cause, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining the enjoining the defendants from refusing or limiting Medicaid coverage for therapies recommended and/or prescribed to the plaintiffs or members of the putative class by a Medicaid recipient’s physician or other licensed practitioner of the healing arts acting within the scope of his or her practice under Indiana law, and enjoining the defendants from enforcing either Title 405, Rule 5-22-6(b)(6), or Title 405, Rule 5-22-6(b)(7), of the Indiana Administrative Code against the plaintiffs or the members of the putative class. In support of this Motion, the plaintiffs state as follows:

1. The challenged denial or limitation of the prescribed therapies is illegal under federal Medicaid law, and therefore they will meet their obligation to demonstrate a probability of success on the merits in this cause.
2. The plaintiffs are being and will be caused irreparable harm for which there is no adequate remedy at law absent a preliminary injunction.

3. The balance of interests favors the grant of a preliminary injunction in this matter.
4. The public interest will not be disserved by the grant of a preliminary injunction in this matter.
5. The preliminary injunction should issue without bond.
6. The plaintiffs intend to support this Motion with affidavits and/or other evidence and a memorandum of law which will be filed in the near future or pursuant to a schedule set by this Court or agreed to by the parties.

WHEREFORE, the plaintiffs respectfully request that a preliminary injunction be granted in this cause, without bond, and request all other proper relief.

/s/ Gavin M. Rose

Gavin M. Rose, No. 26565-53

ACLU of Indiana

1031 E. Washington St.

Indianapolis, IN 46202

Ph: 317/635-4059, x106

Fax: 317/635-4105

<grose@aclu-in.org>

*Attorney for the plaintiffs and the
putative class*

CERTIFICATE OF SERVICE

I hereby verify that on this 25th day of March, 2010, a copy of the foregoing was filed electronically with the Clerk of this Court. A copy was also served, by first class U.S. postage, pre-paid, on this 25th day of March, 2010, on the following persons:

Anne Waltermann Murphy, Secretary
Indiana Family and Social Services Administration
402 W. Washington St., Rm. W-461
Indianapolis, Indiana 46204

Patricia Casanova, Director – OMPP
Indiana Family and Social Services Administration
402 W. Washington St., Rm. W-461
Indianapolis, Indiana 46204

Greg Zoeller, Attorney General
IGCS – 5th Floor
302 W. Washington St.
Indianapolis, IN 46204

/s/ Gavin M. Rose
Gavin M. Rose
Attorney at Law