

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

STEVEN HILTIBRAN, by and through his )  
mother and guardian, Debra Burkhart; )  
NICHOLAS TATUM, by and through his )  
mother and next friend, Stacy Tatum; )  
RONALD COONTZ, by and through his )  
mother and guardian, Patricia Coontz; and )  
NENA HAMMOND, )

Plaintiffs, )

v. )

Case No. 10-4185-CV-C-NKL

RONALD J. LEVY, in his official capacity )  
as Director of the Missouri Department of )  
Social Services; and )  
IAN McCASLIN, M.D., in his official )  
capacity as Director of the MO HealthNet )  
Division, )

Defendants. )

**PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Come now Plaintiffs, pursuant to Fed. R. Civ. P. Rule 65, and move this Court for a preliminary injunction enjoining Defendants Levy and McCaslin from applying Mo. Rule 13 C.S.R. § 70-60.010 and other written policies so as to deny Medicaid coverage of medically necessary adult incontinence supplies to adults residing in the community. In support of this motion, Plaintiffs submit their Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, and the Declarations and other exhibits filed contemporaneously herewith.

WHEREFORE, plaintiffs respectfully request that this Court grant the following relief:

1. A preliminary injunction enjoining Defendants Levy and McCaslin from applying Mo. Rule 13 C.S.R. § 70-60.010 and other written policies to deny coverage of medically necessary incontinence briefs for adults residing in the community without allowing such adults to establish the medical necessity of such coverage; and
2. An Order that no bond is required; and
3. An Order granting such other relief as is just and proper.

Respectfully submitted,

/s/ Joel Ferber

Joel Ferber # 35165  
Claggett # 26982  
Swearingen # 33339  
Services of Eastern Missouri  
Forest Park Avenue  
Louis, Missouri 63108  
534-4200 telephone  
534-1028 facsimile  
[jferber@lsem.org](mailto:jferber@lsem.org)  
[declaggett@lsem.org](mailto:declaggett@lsem.org)  
[rlswearingen@lsem.org](mailto:rlswearingen@lsem.org)

Daniel  
Robert  
Legal  
4232  
St.  
(314)  
(314)

/s/ John J. Ammann

J. Ammann # 34308  
Louis University Legal Clinic  
N. Spring Street  
Louis, Missouri 63108  
977-2778 telephone  
977-1180 facsimile  
[ammannjj@slu.edu](mailto:ammannjj@slu.edu)

John  
Saint  
321  
St.  
(314)  
(314)

/s/ Thomas E. Kennedy, III

Thom  
Law  
  
230  
St.  
(314)  
(314)

as E. Kennedy, III # 46617  
Offices of Thomas E.  
Kennedy, III, L.C.  
S. Bemiston Avenue  
Louis, Missouri 63105  
872-9041 telephone  
872-9043 facsimile  
[tkennedy@tkennedylaw.com](mailto:tkennedy@tkennedylaw.com)

National  
  
(919)  
(919)

/s/ Jane Perkins \_\_\_\_\_  
Jane Perkins  
Health Law Program, Inc.  
101 East Weaver St., Suite G-7  
Carrboro, North Carolina 27510  
968-6308 telephone  
968 -8855 facsimile  
[perkins@healthlaw.org](mailto:perkins@healthlaw.org)

ATTORNEYS FOR PLAINTIFFS