

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Case No.: 5:11-cv-354

K.C. et al., individually and on behalf of all  
others similarly situated,

Plaintiffs, and

M.S., individually and on behalf of all others  
similarly situated,

Intervenor Plaintiff,

v.

LANIER CANSLER, in his official capacity  
as Secretary of the Department of Health and  
Human Services, et al.,

Defendants.

**MOTION FOR TEMPORARY  
RESTRAINING ORDER**

Plaintiffs K.C. and D.C. and Intervenor Plaintiff M.S. move the Court for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 to enjoin Defendants from further reducing their Medicaid services effective January 1, 2012 without first providing notice and the opportunity for a hearing. The reasons for this motion are that:

1. Defendants already reduced each of these Plaintiffs' services effective July 1, 2011 without notice or hearing rights. Defendants now intend to further reduce these Plaintiffs' services by significant amounts effective January 1, 2012, again without notice or hearing rights.
2. These three named plaintiffs seek a Temporary Restraining Order to prevent Defendants from further reducing their services until they are first provided with due process or until this Court rules on their already pending request for a preliminary injunction.
3. Plaintiffs K.C., D.C. and M.S. are already suffering irreparable harm and are imminently threatened with immediate and severe additional irreparable harm unless the further significant reductions in their services scheduled for January 1, 2012 are

temporarily enjoined.

4. The actions of the Defendants, as demonstrated by the attached declarations and memorandum of law and those filed with Plaintiffs' previous Motions for Preliminary Injunction, Class Certification, and Intervention of M.S., plainly violate the Medicaid Act and the Due Process Clause of the United States Constitution.
5. The immediate irreparable injury with which these three plaintiffs are threatened will occur before this Court can rule on Plaintiffs' pending motion for preliminary injunction, as the briefing on that motion has been stayed.
6. Plaintiffs have verified that Defendants will not consent to this motion and that Defendants wish to be heard prior to entry of a Temporary Restraining Order.

WHEREFORE, Plaintiffs move the Court to:

- A. Schedule a telephonic hearing for the week of December 26, 2011 on this motion.
- B. Temporarily restrain Defendants and their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, from further reducing or terminating Medicaid services to named plaintiffs K.C., and D.C. and Intervenor Plaintiff M.S. under the PBH Innovations Waiver based on budget limits under the Support Needs Matrix until Defendants first provide advance notice and the opportunity for a fair hearing.
- C. Waive any requirement for security on the part of the plaintiffs.

Dated: December 20, 2011

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