
X State Sued to Block Budget Cuts For Foster Kids

By Matthew Pordum
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SACRAMENTO — Child advocates are seeking a temporary restraining order to prevent the state from enacting a 10 percent cut in reimbursement rates to care for foster children in group homes.

The California Alliance of Child and Family Services alleges the state's failure to pay California's private foster care group homes appropriate rates for providing care violates the federal Child Welfare Act. That law requires states to "cover the cost" of providing children's care in order to obtain federal foster care matching funds. *California Alliance of Child and Family Services v. John Wagner & Gregory Rose*, CV09-4398 (N.D., filed Sept. 18, 2009)

Gov. Arnold Schwarzenegger and the Legislature reached an agreement on the rate cut as part of the July budget revision to save the state an estimated \$26.6 million.

Advocates said California group homes have not received rate increases in at least 15 years. The proposed lower rate, which

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went into effect Oct. 1, provides for only 68 cents for every dollar it costs to care for a foster child, according to the suit.

"This situation is intolerable," Carroll Schroeder, executive director of the California Alliance of Child and Family Services, said in a written statement. "With this cut, the amount built into group home rates for entry level child care counselor wages will be \$7.44 an hour, 56 cents below California's minimum wage.

"Agencies will be forced to choose between seriously downsizing, closing their programs entirely, or providing substandard care for their kids," she added.

A spokesperson from the California Department of Social Services declined to comment on the specifics of the case, but did say "we will be defending the provisions of the budget as enacted by the Legislature and the Governor." The suit names two department officials as defendants.

Marilyn Hall Patel, presiding judge of the federal court for the Northern District, will hold a hearing on the proposed injunction in San Francisco this afternoon.

The lawsuit joins a litany of others seeking to prevent the state's budget cuts from taking effect, many focusing on the issue of health care.

Seniors, disabled patients and unions for in-home health workers sued California officials last week in federal court seeking to prevent the state from cutting the Home Health Support Services program that assists elderly and mentally ill people who cannot handle daily tasks like taking medications and cooking but are not sick enough to be institutionalized.

Pursuant to the "supremacy clause" of the Constitution, the foster care lawsuit asks the federal court to prevent the state from implementing the rate cuts that would compromise children's health and safety and further violate U.S. law.

William Abrams, lead attorney for the Alliance and partner at Bingham McCutchen, said he feels "very confident we will win in this case because it's very clear the state is not living up to their end of the bargain under the Child Welfare Act."

Schroeder added that the implementation of the cut has forced 16 of the Alliance's current member

agencies to close and another 22 will reduce their capacity, resulting in a loss of nearly 900 group home placements across the state.

Ultimately, Schroeder contends as many as one-third of California's group home capacity could be lost, which could affect roughly 2,000 youths.

Abrams said the state has failed the foster care system for more than a decade by not meeting the rising rates in cost of living each year. He contends the state is off the mark by 30 percent to 40 percent.

"The state didn't have to be a participant in a system that provided for a match in federal funds, but by doing so and not living up to what's required of them the state is violating the law at the expense of children who really have no voice, no lobbying group or political action committee."

"When I go to the bank and get a mortgage that doesn't mean I pay some of my mortgage payments, but I pay all of it," Abrams added. "By cutting 10 percent it's devastating foster homes that are already strapped."

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