

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

K.W., by his next friend D.W, et al.,

Plaintiff,

v.

RICHARD ARMSTRONG, in his official capacity as Director of the Idaho Department of Health and Welfare; PAUL LEARY, in his official capacity as Medicaid Administrator of the Idaho Department of Health and Welfare; and the IDAHO DEPARTMENT OF HEALTH AND WELFARE, a Department of the State of Idaho,

Defendants.

Case No. 1:12-CV-22-BLW

**PRELIMINARY INJUNCTION**

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This Court has the parties' STIPULATION FOR PRELIMINARY INJUNCTION. This Court has reviewed the record in this case and the parties' stipulation, and has determined that there is good cause for approving the parties' stipulation.

Now, therefore, **IT IS ORDERED** that defendants RICHARD ARMSTRONG, in his official capacity of the Idaho Department of Health and Welfare, and PAUL LEARY, in his official capacity as the Medicaid Administrator of the Idaho Department of Health and Welfare, and all of their officers, servants, employees, attorneys, and all those in active concert or participation with them are **HEREBY ENJOINED** as follows:

**Preliminary Injunction - 1**

1. The defendants shall restore and continue the plaintiffs' Medicaid services under the Idaho Developmental Disabilities waiver as provided in the Individual Support Plans in place for each plaintiff prior to July 1, 2011, and before the last "ANNUAL ICF/ID LEVEL OF CARE AND DD ELIGIBILITY APPROVAL NOTICE" and budget assignment notice sent to them, and are prohibited from reducing or terminating Medicaid services under the Idaho Developmental Disabilities waiver to the plaintiffs based on their most recent assigned budget limits unless and until the defendants first provide adequate advance notice, approved by this Court, and the opportunity for a fair hearing prior to the reduction or termination of services. If the parties cannot agree, for any individual plaintiff, upon the level of services or Individual Support Plan to which he or she is to be reinstated, continued, or restored under this order, that plaintiff or the defendants may apply to this Court for clarification.

2. For any participant of the Idaho Medicaid Adult Developmental Disabilities program who makes a request (personally or through their guardian or attorney, or by another person providing a duly executed IDHW Authorization for Disclosure) for the budget setting methodology, the defendants shall make all of the following materials available for inspection and copying:

- (a) Unaltered and unredacted electronic copies of the budget calculating tool spreadsheets used to compute individual Medicaid budgets, including all prior versions of the budget calculating tool that are in the custody, control, or possession of the Idaho Department of Health and Welfare.
- (b) Unaltered and unredacted copies of the Inventory of Individual Needs concerning that participant, including all prior Inventory of Individual

Needs concerning that participant.

- (c) Unaltered and unredacted electronic copies of the budget calculating tool spreadsheets actually used to compute that participant's budget, including all prior versions of the budget calculating tool spreadsheets that are in the custody, control, or possession of the Idaho Department of Health and Welfare and were actually used to compute that participant's prior budgets.
- (d) All materials in that participant's case file(s) maintained by the Idaho Department of Health and Welfare (IDHW) and each IDHW contractor that performed an independent assessment of the requesting individual. Provided that, if any copyrighted materials are copied, they shall only be copied as allowed by the fair use and other exceptions to the copyright law.
- (e) The following documents and materials:
  - (i) Budget calculating tool, dated 05/10/2011 (no version number designated);
  - (ii) Budget calculating tool, dated 04/15/2011 (Version 7);
  - (iii) Budget calculating tool, dated 10/19/2009 (Version 6);
  - (iv) Budget calculating tool, dated 07/20/2009 (Version 5);
  - (v) Budget calculating tool, dated 07/16/2009 (Version 4);
  - (vi) Budget calculating tool, dated 05/01/2009 (Version 3);
  - (vii) Budget calculating tool, dated 11/15/2007 (Version 2.5);

- (viii) Idaho Medicaid Adult Developmental Disabilities Program Individualized Budget Calculation, dated 06/15/2006;
- (ix) Individualized Budget Implementation, dated 07/19/2006;
- (x) Individualized Budget Fact Sheet, dated 10/06/2007;
- (xi) Department and IAP Individualized Budget Training Video Conference Friday 09/15 [year is unidentified] from 9-12 [p.m.];
- (xii) Idaho Department of Health and Welfare Division of Medicaid Bureau of Developmental Disability Services Adult Developmental Disabilities Individual Budget Model Analysis, dated 01/20/2009;
- (xiii) The Idaho Medicaid Adult DD Individual Budget Review Analysis, dated 01/20/2009;
- (xiv) Calculated Budget Plan (CBP) Model [undated fact sheet];
- (xv) Idaho Department of Health and Welfare, Division of Medicaid Adult Developmental Disabilities Summary of Individualized Budget Model Methodology [undated];
- (xvi) Summary of Statistical Modeling Methodology of the Idaho Medicaid Adult DD Individualized Budget [undated long version];
- (xvii) Summary of Statistical Modeling Methodology of the Idaho Medicaid Adult DD Individualized Budget [undated short version];
- (xviii) Data used in the regression analyses for creating the budget tool, *provided* IDHW estimates it will take approximately 160 hours or more to replace the personal identifying information within that data with

anonymous identifiers, and it shall not be a violation of this injunction if the defendants do not provide that data with anonymous identifiers or until a reasonable time is permitted for the defendants to complete that 160 hours or more of work; and along with any descriptions, reports, studies and other records concerning IDHW's present, prior, and future methodologies, models, tools, spreadsheets, memoranda, training manuals, other materials, including any materials provided to the Independent Assessment Providers, that are in the custody, control, or possession of IDHW or are later created, obtained, found, or discovered by IDHW. All information and materials shall be unredacted and unaltered and shall include all records that are electronically stored.

If a plaintiff or the defendants are unable to agree whether any requested record or information is within the scope of this injunction, that plaintiff or the defendants may apply to this Court for clarification.

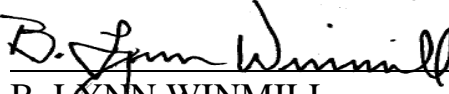
3. For any member of the public who makes an Idaho Public Records Law request for the budget setting methodology, the defendants shall make all of the materials described in subparagraphs 2(a) and 2(e) of this injunction available for inspection and copying.

This preliminary injunction is entered because the parties have agreed by written stipulation to its entry, and also for the reasons set forth in the FIRST TEMPORARY RESTRAINING ORDER (Dkt. 31). The entry of this preliminary injunction does not mean any party may not later raise, argue, or present evidence on any of the issues addressed by this

injunction or any other issue already presented in the pleadings or later properly raised by any party. The bond requirement of F.R.C.P. 65(c) is waived on the ground that the plaintiffs are indigent.



DATED: **March 12, 2012**

  
B. LYNN WINMILL  
Chief Judge  
United States District Court