

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PLANNED PARENTHOOD
OF KANSAS AND MID-MISSOURI,
Plaintiff,

vs.

Case No. 11-2357-JTM

SAM BROWNBACK, GOVERNOR OF KANSAS,
AND
ROBERT MOSER, M.D., SECRETARY,
KANSAS DEPARTMENT OF HEALTH
AND ENVIRONMENT,
Defendants.

MEMORANDUM AND ORDER

On August 1, 2011, the court granted plaintiff Planned Parenthood of Kansas and Mid-Missouri's Motion for Preliminary Injunction (Dkt. 4), enjoining defendants Kansas Governor Sam Brownback and Secretary of the Kansas Department of Health and Environment Dr. Robert Moser, from enforcing recent legislation designed to exclude Planned Parenthood from receiving Title X family planning subgrants in Kansas. (Dkt. 39). Following the court's order, the defendants filed a Notice of Appeal (Dkt. 41), along with

the request to stay enforcement of the court's Order. (Dkt. 43). The court denied the request for stay. (Dkt. 48).

The matter is now before the court on the defendants' Motion for Clarification (Dkt. 52), which seeks a determination

whether it is sufficient, to comply with this Court's order pending the Tenth Circuit's ruling on Defendants' Motion to Stay, which will be filed in the next few days, and pending the Tenth Circuit's ruling on Defendants' appeal, for defendants to pay Planned Parenthood on a monthly basis for family planning services rendered by Planned Parenthood on a monthly basis, in the amounts that were to be paid by Kansas Department of Health and Environment ("KDHE") to Sedgwick County Health Department under the contract entered into by KDHE with Sedgwick County Health Department for expansion of Sedgwick County Health Department's family planning services; and in the amounts that would have been paid to another provider in Ellis County, but for this Court's order.

(Dkt. 52, at 2). Defendants also ask that Planned Parenthood post a bond, pursuant to Fed.R.Civ.Pr. 65(c).

The court finds that defendants' motion should be denied, as the intent of the court's Order was to restore and maintain the prior status quo between the parties, a relationship which was premised on quarterly installment payments of a portion of the subgrant, not a monthly reimbursement schedule, which would have the effect of undermining the plaintiff's ability to maintain its current level of services. The court finds no injury to the defendants in maintaining the prior payment schedule, as they will be providing funding

in a manner consistent with prior practice between the parties, and to an organization which has consistently provided satisfactory family planning services.

Even if the court's Order is later vacated or modified, residents of Wichita and Hays, Kansas will be best assured of continued family planning services by maintaining the status quo. Similarly, in such event, defendants might provide funding to other family planning services providers commencing the next quarter, without incurring significant injury. For the same reason, the court in its discretion finds that no bond is required. Defendants shall resume funding in accordance with this order immediately and shall continue such funding until further order of this court or the U. S. Court of Appeals for the 10th Circuit modifying this order.

IT IS ACCORDINGLY ORDERED this 30th day of August, 2011, that the defendants' Motion to Clarify (Dkt. 52) is hereby denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE