

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

Chianne D., et al.,

Plaintiffs,

v.

Case No. 3:23-cv-985-MMH-LLL

Jason Weida, in his official capacity
as Secretary for the Florida Agency
for Health Care Administration, et al.,

Defendants.

_____ /

**NOTICE OF FILING
PROPOSED ORDER ON PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Local Rule 6.02(a)(1) and 6.01(a)(5) the Plaintiffs hereby submit the attached Proposed Order On Plaintiffs' Motion for Preliminary Injunction (Doc. No. 3), which was inadvertently omitted from Plaintiffs' original filing.

Dated: August 22, 2023

Respectfully submitted,

FLORIDA HEALTH JUSTICE PROJECT

NATIONAL HEALTH LAW PROGRAM

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*** Application for admission pro hac vice forthcoming.*

CERTIFICATE OF SERVICE

I hereby certify that, on August 22, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I served by process server the foregoing on the following non-CM/ECF participant:

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**PROPOSED ORDER ON PLAINTIFFS’
MOTION FOR A CLASSWIDE PRELIMINARY INJUNCTION**

This matter is before the Court on Plaintiffs Chianne Douberly, C.D., A.V., and all similarly situated class members’ Motion for Preliminary Injunction. This is an action for injunctive and declaratory relief in which Plaintiffs claim Defendants are violating their rights under the Due Process Clause of the Fourteenth Amendment and the provisions of the Medicaid Act, 42 U.S.C. § 1396a(a)(3).

Plaintiffs and class members are Florida Medicaid enrollees who have lost or will soon lose Medicaid coverage after the Defendants resumed redetermining their Medicaid eligibility on April 1, 2023. Plaintiffs posit that the notices Defendants send to communicate their ineligibility for Medicaid do not clearly identify the

reasons for the ineligibility determination and that Plaintiffs were therefore unable to challenge the agency decision on appeal.

Before a court will grant preliminary injunctive relief, the moving party must establish that: (1) “it has substantial likelihood of success on the merits,” (2) it will suffer irreparable injury if the relief is not granted, (3) the threatened injury outweighs the harm the relief may inflict on the non-moving party, and (4) entry of relief “would not be adverse to the public interest.” *See, e.g., Odebrecht Const., Inc. v. Sec’y, Fla. Dep’t of Transp.*, 715 F.3d 1268, 1273-74 (11th Cir. 2013).

“Of these four requisites, the first factor, establishing a substantial likelihood of success on the merits, is most important.” *ABC Charters, Inc. v. Bronson*, 591 F. Supp. 2d 1272, 1294 (S.D. Fla. 2008). Here, the Constitution demands a state agency send “timely and adequate notice detailing the reasons for the proposed termination,” including both “the legal and factual bases” for the decision. *Goldberg v. Kelly*, 397 U.S. 254, 267-268 (1970); *see also Gaines v. Hadi*, No. 06-60129-CIV, 2006 WL 6035742, at *12 (S.D. Fla. Jan. 30, 2006).

Second, Plaintiffs must establish irreparable injury if relief is not granted. Plaintiffs, low-income children and adults, have established that they depend on Medicaid to cover the costs of medications, physician visits, hospitalizations, and more. Courts in the Eleventh Circuit have consistently found that “[t]he denial of medical benefits and resultant loss of essential medical services, constitutes an

irreparable harm . . . ” *Edmonds v. Levine*, 417 F. Supp. 2d 1323, 1342 (S.D. Fla. 2006) (citations omitted); *C.R. ex rel. Reed v. Noggle*, 559 F. Supp. 3d 1323, 1342 (N.D. Ga. 2021) (finding reduction in the hours of authorized speech and rehabilitative therapies before a Medicaid recipient was given adequate notice of the reductions caused irreparable harm); *Smith v. Benson*, 703 F. Supp. 2d 1262, 1278 (S.D. Fla. 2010) (finding denial of Medicaid recipient’s prescribed incontinence supplies constituted irreparable harm); *Cramer v. Chiles*, 33 F. Supp. 2d 1342, 1349 (S.D. Fla. 1999) (finding cuts in funding for one Medicaid program, with simultaneous elimination of another program, placed plaintiffs at imminent risk of irreparable harm).

Third, Plaintiffs are required to establish that the threatened injury outweighs the harm the relief may inflict on the non-moving party. Here, the balance of harms clearly lies in the Plaintiffs’ favor. Defendants are obligated to provide timely and adequate notice to any Medicaid enrollee before terminating Medicaid. Where the required notice is not provided, due process and the Medicaid Act require the agency to reinstate coverage until pre-termination process is provided. *Goldberg*, 397 U.S. at 264; 42 C.F.R. § 431.231(c)(1); *see also Kimble v. Solomon*, 599 F.2d 599, 605 (4th Cir. 1979). Thus, a preliminary injunction will not harm the Defendants. Instead, it simply demands that Defendants meet an obligation they are already subject to pursuant to the Constitution and the Medicaid Act. In contrast, the harm

to Plaintiffs if an injunction is not issued is evident and clearly outweighs any harm to the Defendants. *See K.G. v. Garrido*, 839 F. Supp. 2d 1254, 1268 (S.D. Fla. 2011).

Fourth, Plaintiffs must establish that entry of relief would not be adverse to the public interest. Granting a preliminary injunction will serve the public interest in upholding the Constitution and enforcing the mandates of the Medicaid Act. *See K.G.* at 1280.

Upon review of Plaintiffs' Motion for a Preliminary Injunction, and upon finding that Plaintiffs have made a showing of a clear and substantial likelihood of success on the merits of their claims that Defendants have violated the Due Process Clause of the Fourteenth Amendment and the Medicaid Act, the Court hereby GRANTS the requested preliminary injunction.

Defendants are hereby ordered to: (1) prospectively reinstate Medicaid coverage for Plaintiffs and others similarly situated until Defendants provide them with adequate and timely written notice and the opportunity for a de novo fair hearing prior to termination of services and (2) cease further Medicaid terminations until such notice and opportunity for a hearing is provided.

SO ORDERED, this ____ day of _____ 2023.

Honorable United States District Judge