

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

PLANNED PARENTHOOD OF)
THE GREAT NORTHWEST,)

Plaintiff.)

v.)

WILLIAM J. STREUR,)
COMMISSIONER OF THE)
DEPARTMENT OF HEALTH AND)
SOCIAL SERVICES, AND)
STATE OF ALASKA DEPARTMENT)
OF HEALTH AND SOCIAL SERVICES,)

Defendants.)

Case No. 3AN-14-474 CI

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Clerk of the Trial Courts

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**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Pursuant to Alaska Rules of Civil Procedure 65 and 77, Plaintiff Planned Parenthood of the Great Northwest moves this court to grant a temporary restraining order and preliminary injunction without bond restraining Defendants, their employees, agents, appointees, and successors in office from enforcing a newly promulgated regulation, 7 AAC 160.900(d)(30) ("the Regulation"), which will prevent low-income women in Alaska who receive Medicaid from obtaining coverage for medically abortions. The Regulation creates a narrow and restrictive definition of "medically necessary," applicable only to abortions, but no other services covered by Medicaid.

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As more fully detailed in the accompanying memorandum of law, a temporary restraining order and preliminary injunction are warranted here because the Regulation violates the equal protection provisions of the Alaska Constitution. *See State, Dep't of Health & Soc. Servs. v. Planned Parenthood of Alaska*, 28 P.3d 904 (Alaska 2001) (holding that the State's refusal to fund medically necessary abortions, when all other medically necessary services were covered, violates the equal protection rights of Medicaid patients seeking those abortions). The Regulation also violates the Administrative Procedure Act.

Should the Regulation be allowed to take effect as scheduled on February 2, 2014, Planned Parenthood's Medicaid-eligible patients will suffer irreparable harm. In addition to the loss of constitutional rights, many women who depend on Medicaid for their health care and who desire medically necessary abortions will be unable to obtain them if no funding is available. Others will have to delay their procedures, which can increase both risk and expense. In contrast, the State will suffer no harm if preliminary injunctive relief is granted in order to maintain the status quo as it has existed for many years.

Planned Parenthood has demonstrated serious and substantial questions going to the merits of the case, and has also made a clear showing of probable success on its claims.

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This motion is supported by Plaintiff's Memorandum of Law in Support of Motion for Temporary Restraining Order and Preliminary Injunction and the affidavits of Dr. Jan Whitefield, M.D., Ph.D., and Anita Owings.

A Proposed Order granting the Motion for Temporary Restraining Order and Preliminary Injunction accompanies this motion.

Planned Parenthood, by separate motion, seeks expedited consideration of this motion.

NOTICE TO DEFENDANTS OF MOTION FILED PRIOR TO ANSWER

Pursuant to Alaska Rule of Civil Procedure 77(b)(4), Defendants William J. Streur, Commissioner of the Department of Health and Social Services and State Of Alaska Department of Health and Social Services, are hereby notified that Defendants have the right to file a written opposition to Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, and Motion for Expedited Consideration of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction with the Superior Court, Third Judicial District, Anchorage, Alaska. Defendants are hereby notified that Plaintiff has requested that Defendants' opposition to the motion for a temporary restraining order, if any, be filed by 3:30 pm on January 31, 2014, and that Defendants' written opposition to the motion for a preliminary injunction, if any, be filed on an expedited basis, at a time to be determined by the superior court.

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Dated this 29th day of January, 2014.

SUSAN ORLANSKY LLC

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*Motions to appear *pro hac vice* forthcoming