

PRESS RELEASE

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CHILDREN OF DISABLED MOTHERS WIN COURT BATTLE FOR BENEFITS, STRIKE DOWN USE OF "FAMILY CAP"

On October 26, 2001, District Court Judge Paul D. Merritt ruled that the welfare reform "Family Cap" does not apply to children of disabled mothers. This decision will help over 1000 of the poorest families across the state. The plaintiffs had brought a class action court case against the Nebraska Department of Health and Human Services. The trial for the case was held in June, 2001.

Newborn babies of low-income disabled mothers across Nebraska were being denied necessary welfare benefits by the Nebraska Department of Health and Human Services. Of the roughly 10,000 families who receive welfare benefits in Nebraska, over 1000 families are affected by this denial. The children's class action lawsuit demanded the receipt of their benefits and an injunction on the State's use of the rule denying benefits to them. The lawsuit, filed by attorneys working with the Nebraska Appleseed Center for Law in the Public Interest's Welfare Due Process Project, challenged the State of Nebraska's imposition of the so-called "Family Cap" on these children, and the causing of increased hardship for these very poor families.

The plaintiffs, from Omaha and Lincoln, are all children under the age of three born to low-income disabled mothers. Their mothers are unable to be employed due to their disabilities. Nevertheless, these are typical low-income families, with all the needs of families headed by working adults. Without access to ADC benefits for the children, their families are forced to struggle even harder to provide a healthy, safe, and nurturing environment for their children. The children are at risk, and the health and well-being of these families is being damaged. The State of Nebraska's improper decision to prohibit welfare benefits for new children in these households was only making very poor families even poorer.

Judge Merritt found that "in the context of the overall legislative scheme of the Welfare Reform Act and the legislative history...that the Family Cap was not intended to apply to families unable to enter into self-sufficiency contracts." He also found that, "Construing...the Family Cap, as applicable to families unable to attain self-sufficiency would defeat the purpose of the WRA." Judge Merritt

enjoined the State from applying the Family Cap to children of families who are not participants in the welfare self-sufficiency program.

“We are pleased that the court agrees with us that the Nebraska Legislature did not intend for the poorest of the poor to be in even greater distress with the birth of a new baby,” said Sue Ellen Wall, attorney for the plaintiffs. “This decision puts the well-being of children first, over an administrative rule that had no legal justification.”

The Welfare Reform Act (WRA) was passed in the mid-1990’s to create a welfare program that encouraged recipients of public assistance to take part in activities that would lead them to greater economic self-sufficiency. When creating the WRA, the Nebraska Legislature found that it was in the best interest of the state to continue to support individuals and families with limitations that prevented them from total economic self-sufficiency. The Nebraska Legislature intended the Nebraska Welfare Reform Act to enable greater self-sufficiency for those families able to work. They did not intend to punish the newborns of poor disabled women without the "capacity to work" and who are unlikely to become self-sufficient.

Nebraska Appleseed is the sponsor of the Welfare Due Process Project, which provides legal representation for families having difficulties with the implementation of welfare reform.

The Defendants were the State of Nebraska, the Nebraska Department of Health and Human Services, the state administrative agency charged with implementing the WRA, and Ron Ross, Director of Health and Human Services, who is responsible for the administration and supervision of the public assistance programs in Nebraska.