



MICHIGAN REPORT

MACKINAC CENTER SEEKS END TO 'ILLEGAL' CHILDCARE UNION

Childcare workers who formed a union under the UAW and with the Department of Human Services did so illegally because they are not state employees, said officials at the newly-created Mackinac Center Legal Foundation, which filed suit on Wednesday in the Court of Appeals to end the collection of union dues from home daycare providers.

The 2006 formation of the Child Care Providers Together Michigan union, a joint venture between United Auto Workers and the American Federation of State, County and Municipal Employees, was in violation of the state Constitution, said Patrick Wright, the center's senior legal analyst and the head of the new Mackinac Center Legal Foundation. In addition, the majority of the 40,000 plus providers that pay dues either didn't get a vote on organizing or consider themselves self-employed and therefore are opposed to paying dues.

In fact, of the approximately 40,000 providers who are now unionized, only about 6,300 voted in a mail-in ballot, 5,900 in favor and 475 opposed, said Mr. Wright at a Wednesday press conference.

However, according to its website, the union "signed up" an overwhelming majority of 40,000 childcare providers across the state.

"We set out to win raises, improved training, better benefits and stronger rights for child care providers," said the website. "This contract meets almost all those goals and lays out a road map to continue to improve the lives of providers and the children we care for. After going 10 years without raises, we have won raises in all three years of the contract.

"It has been amazing to see what we can achieve as a union that we could not before taking this step," said the statement.

DHS is declining to comment on ongoing litigation and no one from the daycare union returned phone calls or emails.

But the foundation's suit against DHS (Loar v. DHS Director Ismael Ahmed) on behalf of two Petoskey providers who say they didn't receive mail-in ballots and would have voted against organizing if they had a choice, tells a different story.

One of the providers named in the suit, Sherry Loar, said while unions have their place, she is skeptical about the benefits of organizing providers, saying that the union bargained for \$2 an hour from DHS, the same rate she was charging in the mid 1990s when she began her business.

However, according to the union's site, providers' rates are scheduled to increase between 13 percent and 35 percent over the three-year contract, depending on the type of provider.

But Mr. Wright said those are potentially empty promises

that depend on the Legislature's willingness to dole out the money to DHS for the increase in rates, increases that, in this economic climate, he says are unlikely.

Additionally, he said, because of the nature of the business providers are in, their contract lacks the option that other public employees have where if money is tight, the people in top positions or with high seniority are guaranteed their wages and the newest hires are "bumped" or laid off.

"In this case, no provider can get bumped because parents are their bosses and the only ones who can hire or fire them," Mr. Wright said.

Mr. Wright said he chose to file in the appeals court because of the wide impact of the case and that the Court of Claims wasn't an appropriate venue because he is seeking only an end to future union collections, not retroactive reimbursement.

The suit charges that just because many providers are reimbursed for their services by DHS, childcare workers are not state workers anymore than doctors who receive Medicaid payments or grocery stores that accept food stamps.

"If anyone who receives government assistance can unionize, that should concern us all," he said.

Despite the fact the union's formation violates the Michigan Constitution, according to the Mackinac Center, DHS will have collected \$3.7 million in dues by the end of the year from providers, according to litigation background information on the foundation's website.

Mr. Wright said that unionization was simply a "scheme to siphon (the money) into union bank accounts."

But Ms. Loar, who gets state reimbursement for one of 12 children in her care, said she pays \$1.50 a month in dues and Dawn Ives, the other provider named in the suit, said the dues have cost her about \$20 to date.

However, Ms. Loar said providers that have more children getting DHS assistance could be paying up to \$100 per month.

In her case, said Ms. Loar, fighting against organizing is a matter of principle, not losses, since she doesn't think of herself as a state worker and doesn't see the benefit of a union in her occupation.

As for the new legal foundation at the Mackinac Center, which took up Ms. Loar's plea as its initial case after she says her attempts to contact the governor's office for a resolution went unanswered, Mr. Wright said its future will likely involve a small operation of a couple of lawyers pursuing cases that the center has always had a foothold in, such as increasing transparency in government and ensuring property rights.