

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION SUPERIOR COURT  
CAUSE NO.: 49D11-2106-PL-020140

T.L., J.C., L.C, S.A.S., J.H.S., and  
CONCERNED CLERGY OF  
INDIANAPOLIS

Plaintiffs,

v.

ERIC HOLCOMB, in his official capacity  
as GOVERNOR of the State of Indiana  
and FREDERICK PAYNE, in his official  
capacity as COMMISSIONER of the  
INDIANA DEPARTMENT OF  
WORKFORCE DEVELOPMENT

Defendants,

**FILED**

JUN 25 2021 (22<sup>nd</sup>)

*Mylan A. Eldridge*  
CLERK OF THE MARION CIRCUIT COURT

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND JUDGMENT

Comes now the Court, and, this matter having come before the Court on Plaintiffs' Complaint for Declaratory Judgment and Injunctive Relief and Plaintiffs' Motion for Preliminary Injunction, which were filed with the Court on June 14, 2021, and on Plaintiffs' Motion for Emergency Hearing which was filed with the Court on June 17, 2021, and the parties, by counsel, having come before the Court on the 23rd day of June, 2021, and having submitted this matter to the Court for decision, now the Court, being duly advised in the premises, pursuant to Trial Rule 52 (A) of the Indiana Rules of Trial Procedure, issues the following:

## FINDINGS OF FACT

(1) The Court has jurisdiction over the parties herein and the subject matter of this action.

(2) Congress passed the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act in March 2020, codified as 15 U.S.C. § 9001 *et seq.* The CARES Act, in relevant part, provides for benefits, in the form of cash payments to qualified recipients, extensions of time to receive benefits, and extension of some payments to persons who would be otherwise be ineligible for unemployment benefits.

(3) Through the CARES Act, Congress created three types of unemployment benefits for workers who would typically not be eligible for regular unemployment insurance (“UI”) benefits (collectively “CARES Act Benefits”). These benefits offered expanded unemployment insurance coverage to the self-employed, workers without daycare or who needed to supervise children learning from home, and workers experiencing extended weeks of unemployment. 15 U.S.C. §§ 9021, 9025. Congress also recognized that increasing the amount of unemployment benefits for eligible workers would have a stabilizing effect on the economy. 15 U.S.C. § 9023.

(4) One of these benefits, Pandemic Unemployment Assistance (“PUA”), is available for workers who were not eligible for regular unemployment benefits and whose unemployment, partial unemployment, unavailability or inability to work was caused by COVID-19. 15 U.S.C. § 9021.

(5) A second category of benefit, Pandemic Emergency Unemployment Compensation (“PEUC”), added additional weeks of benefits for workers who had exhausted the number of weeks they could draw UI benefits. 15 U.S.C. § 9025.

(6) . Federal Pandemic Unemployment Compensation (“FPUC”) increased the amount of UI benefits by \$600-per-week from March 27, 2020, through July 31, 2020 and \$300-per week from December 27, 2020 to September 6, 2021. 15 U.S.C. § 9023, further amended by the American Rescue Plan Act of 2021 (“ARPA”). Pub. L. No. 117-2, § 9011, 9013, 9016 (March 11, 2021).

(7) PUA, PEUC and FPUC benefits are authorized through September 6, 2021. ARPA § 9011, 9013, 9016. Funds have been appropriated by Congress and are available in the Unemployment Trust Fund to be received by eligible Hoosiers. 15 U.S.C. § 9021(g)(1)(B); 15 U.S.C. § 9023(d)(3); 15 U.S.C. § 9025(d)(1)(B).

(8) The Plaintiffs in this cause of action, who are identified in the caption by their initials, are all receiving benefits in varying amounts which are provided through the CARES Act. (The names of the Plaintiffs and their particular situations are more fully detailed in their sworn statements contained in their individual affidavits which comprise the Appendix of Exhibits in Support of Plaintiffs’ Motion for Preliminary Injunction, which was filed with the Court on June 14, 2021.)

(9) Defendant Eric Holcomb is the Governor of Indiana.

(10) Defendant Frederick Payne is the Commissioner of the Indiana Department of Workforce Development

(11) After enactment of the CARES Act, the Indiana Department of Workforce Development entered into an agreement regarding PUA, PEUC, and FPUC with the U.S. Department of Labor on behalf of the State of Indiana

(12) On May 17, 2021, Governor Holcomb announced that Indiana would end its participation in PUA, PEUC, and FPUC, effective June 19, 2021. All parties acknowledge

that although this action was taken by the Governor, the Plaintiffs are continuing to receive CARES Act Benefits.

(13) On June 14, 2021, the Plaintiffs filed their Complaint for Declaratory Judgment and Injunctive Relief and their Motion for Preliminary Injunction, pursuant to Trial Rule 65(A) of the Indiana Rules of Trial Procedure, with the Court.

(14) In their Affidavits, the Plaintiffs state that the loss of benefits provided to them under the CARES Act will result in an inability to pay rent, utilities, necessary living expenses and medical care, face possible eviction and limit opportunities for necessary and affordable childcare.

(15) On June 17, 2021, the Plaintiffs filed their Motion for Emergency Hearing. The Court set an emergency hearing for June 23, 2021.

(16) On June 21, 2021, the Defendants filed a Motion to Continue the hearing set for June 23, 2021. The Defendants also filed a Motion for Change of Judge on June 21, 2021, pursuant to Trial Rules 76 (B) and 79 of the Indiana Rules of Trial Procedure and LR 49 – TR 79 – 223 of the Marion Circuit and Superior Court Civil Division Rules.

(17) On June 23, 2021, the Court Denied Defendants' Motion to Continue Hearing.

(18) The Court conducted the hearing in this matter on June 23, 2021 on an emergency basis.

#### CONCLUSIONS OF LAW

(1) Wherever appropriate or necessary herein, the above-stated "Findings of Fact" shall be construed and interpreted as Conclusions of Law.

(2) Trial Rule 79 (O) of the Indiana Rules of Trial Procedure states: Nothing in this rule shall divest the original court and judge of jurisdiction to hear and determine emergency matters between the time a motion for change of judge is filed and the appointed special judge accepts jurisdiction.

(3) The public policy of the State of Indiana is set out in I.C. 22-4-1-1 which states: As a guide to the interpretation and application of this article, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is declared hereby to be a serious menace to the health, morale, and welfare of the people of this state and to the maintenance of public order within this state. Protection against this great hazard of our economic life can be provided in some measure by the required and systematic accumulation of funds during periods of employment to provide benefits to the unemployed during periods of unemployment and by encouragement of desirable stable employment. The enactment of this article to provide for payment of benefits to persons unemployed through no fault of their own, to encourage stabilization in employment, and to provide for integrated employment and training services in support of state economic development programs, and to provide maximum job training and employment opportunities for the unemployed, underemployed, the economically disadvantaged, dislocated workers, and others with substantial barriers to employment, is, therefore essential to public welfare; and the same is declared to be a proper exercise of the police powers of the state. To further this public policy, the state, through its department of workforce development, will maintain close coordination among all federal, state, and local agencies whose mission affects the employment or employability of the unemployed and underemployed.

(4) Indiana Code § 22-4-37-1 states, in relevant part, that “[i]t is declared to be the

purpose of this article to secure to the state of Indiana and to employers and employees in Indiana all the rights and benefits which are conferred under the provisions of 42 U.S.C. 501 through 504, 42 U.S.C. 1101 through 1109, 26 U.S.C. 3301 through 3311, and 29 U.S.C. 49 et seq., and the amendments to those statutes.” The enumerated US Code sections deal with the establishment and funding of federal and state unemployment benefits schemes.

(5) While an application for preliminary injunction is addressed to the trial court’s discretion, the power to issue such an injunction should be used sparingly and should not be granted except in rare circumstances in which the law and facts are clearly in the moving party’s favor. Steenhoven v. College Life Insurance Co. of America, Ind. App., 458 N E 2d 661, 667 (1984); Wells v. Auberry, Ind. App. 429 N E. 2d 679, 682 (1982). See also: Sadler v. State Ex. Rel. Sanders, Ind. App. 811 N E 2d 936, 952-53 (2004); Robert’s Hair Designers, Inc., v. Pearson, Ind. App. 780 N E 2d 858, 863 (2002).

(6) A trial court’s discretion to grant or deny preliminary injunctive relief is measured by several factors: (1) whether the plaintiff’s remedies at law are inadequate, thus causing irreparable harm pending the resolution of the substantive action if the injunction does not issue; (2) whether the plaintiff has demonstrated at least a reasonable likelihood of success at trial by establishing a prima facie case; (3) whether the threatened injury to the plaintiff outweighs the threatened harm the grant of the injunction may inflict on the defendant; and (4) whether, by the grant of the preliminary injunction, the public interest would be disserved. In order to grant a preliminary injunction, the moving party has the burden of showing, by a preponderance of the evidence, that the facts and circumstances entitle him to injunctive relief. Apple Glen Crossing v Trademark Retail, 784 NE 2d 484, 487-88 (Ind. 2003); Barlow v. Sipes, Ind. App., 744 NE 2d 1,5 (2001); Reilly v. Daly, Ind. App., 666 NE 2d 439, 443 (1996).

(7) The function of a preliminary injunction is to preserve the status quo pending the final determination of the case on the merits. Mercho-Roushdi Corp v. Blatchford, Ind. App. 742 NE 2d 519, 524 (2001); City of Fort Wayne v. State ex rel. Hoagland, Ind. App. 342 NE 2d 865, 869 (1976).

(8) Preliminary injunctions are generally used to preserve the status quo as it existed before a controversy, pending a full determination on the merits of the dispute. Stoffel v. Daniels, Ind. App., 908 NE 2d 1260, 1272 (2009); U.S. Land Servs v. U.S. Surveyor, Ind. App. 826 N.E. 2d 49, 67 (2005) (emphasis supplied)

(9) Despite Indiana's attempt to end PUA, PEUC and FPUC benefits, continuing to allow access to these benefits favors the status quo as they have been available in their current form since December 27, 2020, or roughly six months.

(10) A loss of housing or medical care and the inability to provide food, shelter and adequate childcare for a family constitute irreparable harm pending resolution of this cause of action and are not adequately compensable by an award of damages.

(11) To establish a party has a reasonable likelihood of success on the merits, the party must establish a prima facie case. Hannum Wagle & Cline Engineering, Inc. v. Am. Consulting, Inc., 64 N.E.3d 863, 874, Ind.App. (2016) (*citing* Apple Glen Crossing, LLC v. Trademark Retail, Inc., 784 N.E.2d 484, 487 (Ind. 2003)). "The party is not required to show that he is entitled to relief as a matter of law, nor is he required to prove and plead a case, which would entitle him to relief upon the merits." *Hannum Wagle*, 64 N.E.3d at 874 (*quoting* Avemco Ins. Co. v. State ex rel. McCarty, 812 N.E.2d 108, 118, Ind. App. (2004).

(12) There is a likelihood of success on the merits. The burden on this element can be

shown by establishing a *prima facie* case. Ind. High Sch. Athletic Ass'n, Inc. v. Martin, 731 N.E.2d 1, 7 (Ind.App. 2000), *rehearing denied, transfer denied*. Substantial probative evidence means “more than a scintilla and less than preponderance.” *Id.* (quoting Partlow v. Indiana Family and Soc. Servs. Admin., 717 N.E.2d 1212, 1217, Ind.App. (1999)). Plaintiffs who seek preliminary injunctive relief are not required to show that they are entitled to relief as a matter of law, nor required to prove and plead a case would entitle them to relief upon the merits. *Ind. High Sch. Athletic Ass'n, Inc.*, 731 N.E.2d at 7 (quoting Norland v. Faust, 675 N.E.2d 1142, 1149, Ind.App., (1997)). .

(13) Unemployment benefits under the CARES Act are funded by and through the federal unemployment programs established under 42 U.S.C. §§ 1101(a), 1104(a), and 1105(a). See 15 U.S.C. § 9021(g), 15 U.S.C § 9025 (d) and 15 U.S.C. § 9023(d). These are the same statutes enumerated in Ind. Code 22-4-37-1.

(14) Indiana Code § 22-4-37-1 charges the State of Indiana with the responsibility of securing “all the rights and benefits” conferred under certain federal statutes, including 42 U.S.C. §§ 1101, 1104 and 1105. Presently, Congress has authorized an enhanced use of benefits conferred under 42 U.S.C. § 1101, *et seq.* for pandemic relief through September 6, 2021. By rejecting these benefits after June 19, 2021, Defendants are in violation of their statutory duties, entitling Plaintiffs to declaratory and injunctive relief.

(15) The Legislature’s determination in I.C. 22-4-37-1 is an instruction to the Department of Workforce Development to administer unemployment benefits available in the Unemployment Trust Fund. Similar to the Legislature’s determination of other aspects of the system of unemployment benefits in Indiana, like the number of weeks a claimant may be

eligible or how to calculate a claimant's monetary benefit amount, I.C. 22-4-37-1's directive to secure all rights and benefits conferred by 42 U.S.C. § 1104 is binding on the State.

(16) A preponderance of the evidence demonstrates the State of Indiana's decision to prematurely end PUA, PEUC and FPUC benefits in Indiana violates I.C. 22-4-37-1. Therefore, Plaintiffs have shown reasonable likelihood of prevailing on the merits of their declaratory judgment action.

(17) The third factor in the preliminary injunction analysis is whether the threatened injury to the Plaintiffs outweighs the potential harm to the State resulting from the granting of an injunction.

(18) The State's costs to administer the CARES Act Benefits are also covered by CARES Act funding. 15 U.S.C. §§ 9021(g), 9023(d), 9025(a)(4)(A). Therefore, the State is not harmed in continued distribution of CARES Act benefits during the pendency of this litigation.

(19) The balance of harms in granting the injunction favors the Plaintiffs. The harm created by the loss of benefits by the plaintiffs far outweighs any potential harm to the State.

(20) As previously cited, "Economic insecurity due to unemployment is declared hereby to be a serious menace to the health, morale and welfare of the people of this state and to the maintenance of public order within this state." Ind. Code § 22-4-1-1. In describing the consequences of poverty Plaintiffs will face without the CARES Act unemployment benefits, the Plaintiffs have contextualized the problems of economic insecurity described in I.C 22-4-1-1.

(21) Indiana law requires that to further this public policy, the State is required to coordinate with federal agencies with the same mission. Ind. Code § 22-4-1-1.

(22) The injunction is in the public interest because it is the articulated public policy

interest in Ind. Code § 22-4-1-1 and the benefits at issue are instrumental in allowing Hoosiers to regain financial stability at an individual level while the State continues to face challenges presented by the COVID-19 pandemic during its return to normalcy.

(23) Indiana law recognizes the importance of these benefits. Indiana law requires the State to accept these benefits.

(24) Plaintiffs' proposed injunction would not disserve the public interest. Rather, the public interest is served by granting injunctive relief which secures Federal benefits for unemployed Hoosiers at no cost to the State.

(25) The plaintiffs in this cause of action seek relief which is both basic and modest: to maintain receipt of their current benefits pending a more complete consideration of their claims which are before the Court. That is the status quo that they seek to preserve. Contrary to the assertion of the Defendants, this request would not create a disruption in the operation of state government. The total amount of time that could be affected here is only at most eighty (80) days: June 19 – September 6, 2021.

(26) The law is with the Plaintiffs and against the Defendants in the issues presented for determination. Accordingly, based on the applicable law, the Plaintiffs have carried the burden in seeking a preliminary injunction.

### **JUDGMENT**

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Defendants, Governor Eric Holcomb and Commissioner Frederick Payne, their officers, employees, and agents; all persons acting in active concert or participation with any Defendant, or under any Defendant's supervision, direction, or control; and all other persons within the scope of Indiana

Trial Rule 65, are enjoined from withdrawing the State of Indiana from unemployment benefits offered through the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act until this Court renders a final judgment on the merits. Indiana shall notify the U.S. Department of Labor immediately of its continued participation in the CARES Act programs pending further action by this Court.

ALL OF WHICH IS ORDERED, ADJUDGED AND DECREED THIS 25 DAY OF JUNE, 2021.

  
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JUDGE, MARION SUPERIOR COURT  
CIVIL DIVISION, ROOM NUMBER ELEVEN

cc:  
All counsel of record