

Special Master Hearings: In Re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota (62-CV-11-5203)

Petition of the Office of Administrative Hearings
Presented to the Special Master
Tuesday, July 12, 2011

FILED
Court Administrator

JUL 12 2011

PETITION

By  Deputy

I. The Office of Administrative Hearings (OAH) petitions the Special Master to consider the OAH's request for continuation of core critical services for the judges and staff at the OAH. The request is for judge and legal services for the divisions of the OAH of workers' compensation hearing process (Chapter 176), administrative law hearing process (Chapter 14) and municipal boundary adjustment unit (Chapter 414).

II. The OAH petition specifically requests 41 employees, consisting of the senior management critical services operational team, compensation judges and one administrative law judge be deemed critical, as well as legal support/administrative staff positions, effective July 18, 2011. Critical judge services would be defined as rulings and orders relating to emergency medical requests, notices of discontinuance and stipulations in workers' compensation matters. Critical judge services in the administrative law division would be the PUC hearing schedule for Judge Cervantes, and the TIS and Special Education cases

III. Funding for the compensation judge and staff positions are funded by the special compensation fund.

IV. Funding for the administrative law judge and staff positions are funded from a continuing appropriation from the enterprise revolving fund.

V. The OAH also petitions the Special Master to grant discretionary authority to the Chief Administrative Law Judge to determine which additional OAH positions would be critical to its operations. These positions so identified would not be returned to work prior to August 1, 2011.

RATIONALE

VI. The OAH is an independent tribunal within the executive branch. The OAH provides settlement conferences, mediation services and hearing services to state and municipal government programs.

VII. OAH requests to continue core mission judge services necessary to deal with critical nature of cases before our judges. The OAH judge staff consists of 23 workers' compensation judges and 7 administrative law judges, including the Chief ALJ.

VIII. The OAH compensation judges are assigned cases and once set before the

compensation judge, that judge must rule on the case. As the OAH has been shutdown since June 30th, compensation judges have not been able to rule on issues on their cases, which include emergency medical requests, notices to discontinue payments on claims and awards on stipulations. These court needs are not being met during the shutdown. Based on our experience, we need to have our judges back as soon as possible to meet these needs. Chief ALJ will make the determination if judges work a full time or part time basis (intermittent status), as dictated by their individual case load needs.

IX. Given the external controls on the operations of the OAH; (i.e., cannot hold public hearings or conferences in our offices, inability to contract (funding) for our contract judges, court reporters, transcribers, or interpreters) the OAH is not requesting full staffing to resume all hearing or conference operations, as is available in the judicial branch and, therefore, it should be noted neither the Duluth or the St. Paul OAH offices will be open to the public.

X. The OAH administrative law judges have a critical need during this shutdown to continue to hear cases under certain circumstances -- PUC and Commerce Department ratemaking -- as deemed critical by Judge Gearin, and in cases involving immediate suspension of human services licensing cases and in special education cases. For these reasons, we are requesting Administrative Law Judge Cervantes be deemed critical for his pending PUC case scheduled for hearing to begin on July 19, 2011. The hearing is scheduled for four days.

XI. To plan, manage and administer the operational needs of the OAH staffing, we request 14 legal and administrative staff required to process and manage filings, contact parties, scheduling and service of the judges' orders and communications as needed. Other administrative duties would include all operational needs in terms of payroll, security, human resources, mail and general office management and supervision.

Main Presenter of the OAH will be Chief Administrative Law Judge Raymond R. Krause
Witness: Susan C. Schleisman, Court Executive.