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BLINDNESS: LEARNING IN NEW DIMENSIONS

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Statement of Shawn Mayo, Executive Director, Blindness: Learning In New Dimensions, (BLIND), Inc. in hearing before the Special Master, July 1, 2011.

I appreciate the opportunity to testify today to describe the reasons why adjustment to blindness training through BLIND, Inc. should be considered a critical function of Minnesota state government, and continued in the event of a state shutdown. Adjustment to blindness training, which we deliver under an operating agreement with State Services for the Blind (SSB), is provided to youth, adults, seniors, and non-native English speaking individuals who have lost the ability to function in essential activities of daily life, including walking from place to place and crossing streets safely, handling and preparing food safely, maintaining safe and sanitary living conditions, shopping for food and other necessary items, communicating with others, reading and writing, managing money and other resources, and handling home maintenance.

Because of the prevalence of negative attitudes about blindness and blind people, our students are exposed to discrimination and substandard treatment by others. Because of this, we must help them rebuild their self-confidence and come to believe in themselves again. The adjustment to blindness process is a delicate one, and interrupting it midstream can result in students giving up, going home, and doing nothing for years to come. And since almost all our students live in apartments supplied by BLIND, Inc., and receive financial support from us, they may find themselves without resources and with no place to go due to the state shutdown.

We have carefully examined Judge Gearin's Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding, and believe there are justifications for including adjustment to blindness training in the list of critical services to be provided in the event of a state shutdown. We have developed the following arguments in cooperation with the National Federation of the Blind of Minnesota (NFBM), which is also testifying here today. I'm going to focus primarily on the training itself and the impact on our students and organization if adjustment to blindness training isn't declared a critical service.

First, we believe that failing to continue adjustment to blindness services under the SSB state plan will violate the supremacy clause of the U.S. Constitution. Jennifer Dunnam, president of the NFBM, will expand on this argument, but basically failing to fund adjustment to blindness training will violate the agreements SSB made in the State Plan under which it delivers vocational rehabilitation services. The relevant findings are 17, 24, 25, and 26.

Under Section 5.3 of the Plan, SSB certifies the following: "(a) [SSB] is able to provide the full range of services listed in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, as appropriate, to all eligible individuals with disabilities in the state who apply for services." If, because of a state shutdown, SSB ceased to have enough state money to match its federal vocational rehabilitation funds and use them to deliver those services, it would in effect default on its obligations under the state plan, leaving itself open to potential federal sanctions. The economic damage to the state would be great, because 80% of vocational rehabilitation service fees are funded by federal dollars matched to state appropriations. For every state dollar not spent, four federal dollars will be lost. The savings to the state will be small, but the harm to blind people will be great.

Second, we believe that failing to continue adjustment to blindness training will violate a contractual agreement between SSB and the recipients of that training. Training is provided under an Individualized Plan for Employment (IPE) that sets forth the services to be provided, the providers, like BLIND, Inc., and the effective service dates, and commits SSB to continue paying for them. Terminating or delaying services

because of a state shutdown would violate the contractual provisions of that agreement. SSB agreed to this process in the State Plan and under the Supremacy clause of the U.S. Constitution, the agreement must be honored.

Third, we believe the state has already made a commitment to continuing adjustment to blindness training by declaring the summer program at the Minnesota State Academy for the Blind a Priority 2 Critical Service. Our PREP program works with transition age blind youth (teenagers). While there are some key differences between our program and the one at the Academy, in many ways they do the same things. The real difference is that one is run by the state and one by a nonprofit organization, ours. We have no other way of receiving these funds, and should not be overlooked because we are a private, not-for-profit that is providing these crucial services to a vulnerable population, especially since there is no other place in Minnesota where they can receive the nonvisual adjustment-to-blindness services. The PREP program should be treated like the Academy one and included on the Priority 2 list of critical services. The only differences between our PREP and adult adjustment to blindness training are age and the fact that adult programs run year round, for that reason we believe it should be included too.

The people who will really be hurt are our students, like Sarah, who used to manage restaurants. When she began losing her eyesight, she had to quit her job and move back in with her parents. For eight months she was afraid to leave her home even to walk her dog. She was completely isolated because she could not access print material or use a computer.

Before training, Brice lived at home with his mother. He did not know how to use a cane to cross streets safely, so did not go anywhere alone. He did not know how to use the stove or oven safely because he was afraid of burning himself because of his blindness, so he could use only the microwave to cook his meals, which means he essentially warmed things up. The sad part is that he is a talented singer, who has produced two CD's, and he is planning to go on to college to major in music performance after he graduates. But will he graduate?

May is a blind immigrant from Laos. When she started training, she spoke no English at all. She is learning to read and write it using Braille and the computer, and now can carry on a good conversation. She is learning how to take the city bus and cross streets independently. The family members she lived with before training treated her like a servant, made her sleep on the couch, and took her Green Card away to keep her from going anyplace else. If her training stops, this is the environment she will return to.

In fact, these are just a three examples of the type of life our students will return to if their training is not funded. Several do not even have a place of their own, and are currently applying for public housing. If their training stops, they won't have a place to live. Our blind teenagers will return home with no other options for the summer to gain the skills and confidence necessary to compete with their sighted peers.

Our calendar year 2011 operating budget is \$1,065,000. At the end of May we had a negative balance of \$22,000. Ordinarily we would make up that small deficiency over the summer months when our enrollment goes up because of summer programs like PREP. But if there is a state shutdown, our financial situation will get much worse. First, we haven't been paid the \$57,000 the state owes us for June, and we won't get it until the state agrees on a budget and the new state fiscal system is put in place. If we have no state business in July, double that amount. That puts us \$136,000 in the red. Even if the state is just shut down for July, SSB rehabilitation counselors, who will have been on layoff for a month, will be a month behind, as will be their referrals to us. So that will put us another \$57,000 in the hole, making our deficit \$223,000, or one fourth of our total budget. You can see how ugly things can get in a short time. We have some unencumbered reserves, but this will leave us vulnerable for future sustainability, so we will be forced to do layoffs. And since we do not pay into the state unemployment trust fund, the money we must use to pay their benefits will severely reduce any cost savings we might gain from the layoffs.

Is it really necessary for blind people to go without training because of some philosophical disagreements on the role of government, especially since the savings to the state will be so tiny? I urge you to continue funding for adjustment to blindness training by declaring it a Priority 2 Critical Service. If that is not possible, I urge you to require SSB to fund adjustment to blindness services retroactively so we can continue to deliver them to our students during the shutdown, confident that we will later be paid for them. Thank you for the opportunity to testify today.



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We Are Changing What It Means To Be Blind

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***Statement From Jennifer Dunnam, President,
National Federation of the Blind of Minnesota
in hearing before the Special Master
July 1, 2011***

Thank you for the opportunity to testify today before you on behalf of the National Federation of the Blind of Minnesota, a consumer advocacy organization with hundreds of members around the state. The NFB of Minnesota is an affiliate of a national organization which was founded in 1940 and was founded to work toward the integration of blind people into mainstream society. Throughout our existence we have been an active part of shaping the state and federal laws governing rehabilitation for blind people.

Having carefully examined Judge Kathleen Gearin's "Findings of Fact, Conclusions of Law, and Order Granting Motion for Temporary Funding" filed with the Ramsey County District Court on June 29, 2011, we believe there are justifications for including adjustment to blindness training through Blindness: Learning in New Dimensions (BLIND), Inc. in the list of critical services to be continued during the state shutdown. In addition to the very real and practical issues of the harm that can occur to students if adjustment to blindness training is interrupted, here is a summary of the legal considerations.

1. Failing to continue adjustment to blindness services under the State Plan will violate the Supremacy clause of the U.S. Constitution. Judge Gearin's findings 17, 24, 25, and 26 make reference to "numerous agreements with the United States government which require the State to make payments to individuals or local government units, or to undertake certain administrative duties on behalf of or in cooperation with the federal government. Without funding as of July 1, 2011, the State will violate the Supremacy clause of the U.S. Constitution."

One such agreement is the State Plan under which State Services for the Blind (SSB) delivers vocational rehabilitation services. Section 1.2 of State Certifications, says in part: "As a condition for the receipt of federal funds under Title I, Part B, of the Rehabilitation Act for the provision of vocational rehabilitation services, the Department of Employment and Economic Development agrees to operate and administer the State Vocational Rehabilitation Services Program in accordance with the provisions of this State Plan, the Rehabilitation Act, and all applicable regulations, policies and procedures established by the secretary."

Under Section 5.3 of the Plan, SSB certifies the following: "(a) [SSB] is able to provide the full range of services listed in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, as appropriate, to all eligible individuals with disabilities in the state who apply for services." If, because of a state shutdown, SSB ceased to have enough state money to match its federal vocational

rehabilitation funds and use them to deliver those services, it would in effect default on its obligations under the state plan, leaving itself open to potential federal sanctions.

2. Failing to continue adjustment to blindness services would violate a contractual agreement between SSB and the recipient of services. Services to each individual are provided under an Individualized Plan for Employment (IPE) that sets forth the services to be provided, the providers, and the effective dates of those services, and commits SSB to continue paying for them. Terminating or delaying services because of a state shutdown would violate the contractual provisions of that agreement.

Vocational Rehabilitation Act Regulations Section 361.45 says, in part: “The State plan must assure that--(1) An individualized plan for employment (IPE) meeting the requirements of this section and Sec. 361.46 is developed and implemented in a timely manner for each individual determined to be eligible for vocational rehabilitation services . . .” and “(2) Services will be provided in accordance with the provisions of the IPE.” Again, these are commitments the state has made to the federal government, and under the Supremacy clause of the U.S. Constitution, they must be honored.

In addition to the above, we note that the summer program for youth run by the Minnesota Academy for the Blind is considered critical, but the summer program for youth run by BLIND, Inc., which has a number of similarities, is not. This is an inconsistent application of Priority 2. Both programs serve transition age blind youth who are covered by Individual Education Plans (IEP), and both provide blindness skills training and self-confidence building activities. The only difference is that the Academy program is run by state government, and the BLIND, Inc. program is run by a nonprofit organization under an operating agreement with the state. The PREP program should be treated the same as the Academy one and included on the Priority 2 list of critical services.