IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY
AT NASHVILLE

NASHVILLE CARES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 26-1413-III**
	)	**Chancellor I'Ashea L. Myles**
TENNESSEE DEPARTMENT OF HEALTH; AND COMMISSIONER JOHN R. DUNN, in his official capacity,	)	
	)	
Defendants.	)	

TENN. R. CIV. P. 72 DECLARATION

I, Rand Carpenter, DVM, state as follows:

1. I am the HIV, STI, Viral Hepatitis, & Tuberculosis Section Director in the Communicable and Environmental Disease and Emergency Preparedness Division, Tennessee Department of Health ("the Department"). I am over 18 and competent to testify. I make this affidavit on personal knowledge and on my review of Department records kept in the regular course of business. I submit it in opposition to Plaintiff's Motion for Temporary Restraining Order and Motion for Temporary Injunction.

2. In that role, I am responsible for administering Ryan White Part B ("RWPB") and Housing Opportunities for Persons With Aids ("HOPWA") subrecipient contracts and overseeing case management services that facilitate access to medical and support care. I am familiar with the Department's contracts with Nashville CARES ("CARES"), including the Insurance Assistance Program ("IAP") contract (Compl. Ex. L), the RWPB case management contract (Compl. Ex. N), and the HOPWA contract. There are 15 companies that provide RWPB case management services, including CARES. However, CARES is the only company operating the IAP insurance program.

3. CARES is a grant subrecipient through multiple grants using federal funds to provide case management and other support to clients in the RWPB program and HOPWA programs. Using TDH-administered RWPB funds, CARES pays insurance premiums, for RWBP enrollees under the IAP program, which provides full insurance benefits for enrollees. The Department pays CARES $3,000,000 a year to administer the IAP program and $54,494,850 in the current grant year as pass-thru funding for IAP program costs, which include premiums, copays, and deductibles on behalf of RWBP IAP enrollees. Under another contract the Department pays CARES $176,400 for the provision of RWPB core medical services including case management. Under a third the Department pays CARES $130,000 a year to provide services under HOPWA. HOPWA is a HUD-funded grant administered by the Department through grantees, under which CARES provides short-term housing, utility, nutritional, and transportation assistance. CARES is also a sub-contractor of United Way for $162,700 for the provision of HIV support services for which United Way is the Department's subrecipient of RWPB funds.

4. Each contract remains in effect on its existing terms. The IAP and RWPB contracts expire March 31, 2027; the HOPWA contract expires on June 30, 2027. None of the contracts contain a citizenship or immigration verification term. The CARES contract with United Way is determined between those parties.

5. The proposed amendments to scope language in each CARES contract, titled "Eligibility Verification," ("eligibility verification amendment") are offers. They take effect only if a grant subrecipient like CARES signs them and the Department obtains the required State approvals, including the Fiscal Review Committee ("FRC") review where applicable. The Department sent CARES a proposed amendment to the current contract for case management services on September 25, 2026, and for HOPWA on October 12, 2026.

6. CARES has not signed any of the proposed amendments. The Department has not executed or approved any amendment adding eligibility verification language to any CARES contract. Other grant subrecipients have signed the proposed amendments and did so before CARES filed its lawsuit.

7. Signing is voluntary. A subrecipient that does not sign continues to provide services and receive payment under its current contract.

8. The Department has not withheld, reduced, or delayed any payment to CARES because CARES has not signed. On October 2, 2026, the Department pre-paid CARES $27,247,425 to fund the current IAP contract for October 1, 2026, through March 31, 2027. The IAP contract amendment language requested of CARES included eligibility verification, a 12 month extension, and the funding for that period. While negotiating these new contract terms with CARES, the Department has been preparing the necessary software and training staff to comply with legal eligibility requirements for the annual ACA open enrollment for RWPB IAP beginning November 1, 2026.

9. The Department has not audited, monitored, or issued any finding against CARES based on eligibility verification amendments or any citizenship or immigration verification requirement.

10. On October 1, 2026, the Department rescinded the August 18, 2026 memorandum (Compl. Ex. A). The Department has not enforced the August 18 memorandum against CARES or any subrecipient, and does not intend to reinstate it.

11. The proposed amendment to scope regarding eligibility verification applies only "to the extent" grant funds provide a "state or local public benefit" or "federal public benefit" as

defined in Tenn. Code Ann. § 4-58-102. The Department does not apply it to HIV testing, treatment, and associated core medical services. However, IAP is not an exempt public benefit.

12. The case managers of RWPB subrecipients that have signed the eligibility verification amendment, collect basic identifying information from the applicant, such as name, address, and Social Security number or other eligibility documentation. Subrecipients under the grant contract must retain records for work performed under the contract. The Department verifies eligibility for services before the client is eligible for IAP. A subrecipient who does not sign the amendment will not be able to enter client eligibility information into the Ryan White Eligibility System ("RWES"), and the Department will have no means to verify eligibility status for these clients. Because this verification is done by the case manager and the Department, there is no verification to complete by CARES under their IAP contract.

13. Annual Affordable Care Act open enrollment for RWPB begins November 1, 2026. Medical and non-medical case managers across the Department and contracted agencies verify eligibility, collect required documentation, and guide clients through enrollment. Once eligibility is confirmed, case managers submit applications to ensure immediate access to HIV medication and treatment through the HIV/AIDS Drug Assistance Program ("HDAP"), which the Department considers treatment exempt from state or federal benefit definitions.

14. During annual open enrollment, case managers and third-party independent insurance brokers work with their clients to pursue enrollment in the IAP program. The Department encourages enrollment in IAP for all who are interested due to improved health outcomes by enrolled patients and cost savings to the program. An RWPB applicant determined not eligible for IAP still has access to HDAP. No RWPB client regardless of eligibility for all program benefits and services is denied access to testing and treatment services.

15. The Department received CARES's petition for a declaratory order on September 29, 2026. It received a purported amended petition on October 14, 2026. CARES, through its lawyers, confirmed that it has withdrawn the September 29 petition and the October 14 petition is the current, operative petition. The Department has not set the petition for a contested case hearing or otherwise ruled on it.

16. In the weeks leading up to ACA open enrollment, the Department spent time preparing necessary software and training staff. After this Court granted a temporary restraining order, the Department immediately informed staff and all contracted agencies of the decision. With few days until open enrollment, the Department is attempting to prepare to be able to pivot towards one of two different processes. Compliance with a TRO and temporary injunction prohibiting verification of eligibility for RWPB services will continue to require additional training of staff and case managers. I estimate it will take approximately 40 to 60 hours of additional training and labor. The Department may also need to explore other funding structures if ineligible applicants are enrolled in insurance while an injunction is pending in order to balance our compliance obligations with the terms of the RWPB grant program.

FURTHER AFFIANT SAITH NOT.

DECLARATION

I declare under the penalty of perjury that the foregoing is true and correct.



NAME: Rand Carpenter, DVM

DATE: October 28, 2026

TITLE: HIV, STI, Viral Hepatitis, & Tuberculosis Section Director
Communicable and Environmental Disease and Emergency Preparedness
Tennessee Department of Health