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Honorable Douglass North



SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

DOUGLAS L. MOORE, MARY CAMP,	)	
GAYLORD CASE and a class of similarly	)	NO. 06-2-21115-4 SEA
situated individuals,	)	
	)	<b>CLASS ACTION</b>
Plaintiffs,	)	
	)	<b>FIRST AMENDED COMPLAINT</b>
v.	)	
	)	
HEALTH CARE AUTHORITY and	)	
STATE OF WASHINGTON,	)	
	)	
Defendants.	)	

Plaintiffs allege as follows on behalf of a class:

**PARTIES**

1. Plaintiff Douglas Moore has worked for the State of Washington as a horse racing steward in Auburn, Washington.
2. Plaintiff Mary Camp has worked for the State of Washington as a part-time community college instructor in Bellingham, Washington.
3. Plaintiff Gaylord Case has worked for the State of Washington as a transportation worker in Yakima, Washington.
4. Plaintiffs bring this action on behalf of a class, as described below.
5. Defendant Health Care Authority (HCA) is a State of Washington agency that is part of and acts for and on behalf of the State of Washington.
6. Defendant State of Washington employs plaintiffs and class members.

1 **FACTS**

2 ***Plaintiffs***

3 7. Plaintiff Douglas Moore has worked as a steward for the Washington State  
4 Horse Racing Commission in Auburn, Washington. Plaintiff Moore has worked on average  
5 more than half-time for the State on a nine-month seasonal basis, February to October. Plain-  
6 tiff Moore generally works full-time in seven months (March to September), and a little less  
7 than half-time in two months (February and October). The State classifies Moore as ineligible  
8 for employer-paid health insurance in the off-season because Moore does not work half-time  
9 or more in each particular month of the nine-month season. In contrast, the State provides  
10 employer-paid health insurance year-round to employees who work less than plaintiff Moore,  
11 *i.e.*, employees who work no more than half-time in each month for nine months (in compari-  
12 son Moore works full-time in seven of those months).

13 8. Plaintiff Mary Camp has worked as a part-time community college instructor  
14 at Whatcom Community College, and she has worked on average half-time or more each  
15 nine-month instructional-year. But rather than permitting her to receive employer-paid health  
16 insurance year-round, the State classified plaintiff Camp as ineligible for employer-paid  
17 health insurance because she did not work half-time in each and every quarter.

18 9. Plaintiff Gaylord Case has worked as a transportation worker in Yakima  
19 County for the State of Washington. Plaintiff Case has worked on average more than half-  
20 time for the Department of Transportation since December 2003. The State, however, denied  
21 Case employer-paid health insurance because it classified him as “on-call.” The State then  
22 started to provide Case employer-paid health insurance after it responded to a Public Disclo-  
23 sure Act request that asked the Department of Transportation to identify all “temporary,”  
24 “seasonal,” and “intermittent” employees not receiving employer-paid health insurance.

25 ***Class Action Allegations***

10. This action is brought on behalf of a class of persons who presently or for-

1 merly worked for the State of Washington and who do not, or did not, receive the employer-  
2 paid health insurance they were eligible for under the law. The class as defined includes,  
3 within the applicable statute of limitations, all state employees who worked or will work half-  
4 time or more on average for six months, and who were denied health insurance (a) commenc-  
5 ing in the seventh month of employment; and/or (b) at any time in the nine or more months or  
6 in the corresponding off-season for those employees working on average half-time or more on  
7 a nine-month (or more) seasonal basis; and/or (c) in any month in which the employees re-  
8 ceived pay for eight or more hours of work after the employees became eligible.

9 11. The eligibility criteria for employer-paid health insurance for State employees  
10 under the governing statutes and regulations are based on objective standards – the employ-  
11 ees' hours and/or percentage of full-time.

12 12. Because state employees' eligibility for health insurance is based on objective  
13 standards, the identity of class members and their eligibility for health insurance can be de-  
14 termined from the State's employment records on a mechanical basis by a computer program  
15 that tracks the employees' employment history on a monthly basis and shows whether they  
16 received health insurance in that month.

17 13. The defendant State and Health Care Authority have failed to apply and im-  
18 plement on a consistent basis the objective criteria governing State employees' eligibility for  
19 health insurance. This has resulted in class members not receiving employer-paid health in-  
20 surance they are eligible for under the law, while other State employees working the same or  
21 fewer hours have received such health insurance.

22 14. The State as employer has a duty to comply with its regulations and statutes  
23 governing employer-paid health insurance by correctly classifying employees as eligible or  
24 ineligible for health insurance based on their actual work circumstances. The State has  
25 breached its duty on a class-wide basis by incorrectly classifying State employees as ineligible  
for health insurance.



1 they work on “average” half-time or more in an instructional year, and this breach caused  
2 plaintiffs and other State employees to not receive benefits to which the employees are enti-  
3 tled. The HCA also violated the Supreme Court’s mandate in *Mader v. HCA*, 149 Wn.2d 458  
4 (2003), RCW Ch. 41.05, RCW 49.44.170, Laws of 2006, Ch. 308, §2, and the Washington  
5 constitution by amending the regulation governing State employees’ eligibility for health in-  
6 surance, WAC 182-12-115, for the express purpose of “correcting” the Supreme Court deci-  
7 sion.

8 **RELIEF**

9 The plaintiffs and the class should be awarded the following relief due to the Defen-  
10 dants’ unlawful practices:

- 11 A) Compensatory relief in an amount to be determined, along with double dam-  
12 ages under RCW 49.52.070;
- 13 B) Declaratory relief concerning the rights and status of plaintiffs and the class;
- 14 D) An injunction preventing the State of Washington and the Health Care Author-  
15 ity from engaging in further violations of the law and a mandatory injunction requiring the  
16 State and Health Care Authority to provide plaintiffs and the class employer-paid health in-  
17 surance under the applicable rules and regulations;
- 18 E) Attorney fees under RCW 49.48.030 and the common-fund doctrine;
- 19 F) Prejudgment interest; and
- 20 G) Such other relief the Court deems just and equitable.

21 DATED: October 26, 2006.

22 BENDICH, STOBAUGH & STRONG, P.C.

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