

IN THE CIRCUIT COURT OF THE SECOND
JUDICIAL CIRCUIT IN AND FOR LEON
COUNTY, FLORIDA

CASE NO.: 2026-CA-00386

AIDS HEALTHCARE FOUNDATION, INC.,
and RECIPIENT ONE,

Plaintiffs,

v.

FLORIDA DEPARTMENT OF HEALTH,

Defendant.

AMENDED COMPLAINT

Plaintiffs, AIDS Healthcare Foundation, Inc. (“AHF”) and Recipient One, by and through undersigned counsel, file this Amended Complaint against Defendant, the Florida Department of Health (“Defendant”), and allege:

PARTIES, JURISDICTION, AND VENUE

1. This is an action for a declaratory judgment pursuant to Sections 86.011(1) and (2), Florida Statutes, and Article V, section 5(b) of the Florida Constitution.
2. AHF is a foreign not-for-profit corporation authorized to do business in Florida, with its principal address at 700 Third Avenue, Fourth Floor, Fort Lauderdale, Florida 33316.
3. Recipient One is a Florida resident currently receiving medication and insurance premium assistance benefits from DOH through the AIDS Drug Assistance Program (“ADAP”). Recipient One’s address is confidential.
4. Defendant is an agency of the State of Florida charged with administering communicable disease prevention and control programs, including HIV and AIDS programs, pursuant to Chapters 381 and 384, Florida Statutes.

5. This Court possesses subject matter jurisdiction to declare the rights, status, and legal relations of the parties with respect to the validity and enforceability of agency action alleged to be unlawful, ultra vires, and taken in violation of the Florida Administrative Procedure Act, Chapter 120, Florida Statutes (the “APA”).

6. Venue is proper in Leon County, Florida, because Defendant is a state agency with its principal headquarters in Leon County and the challenged agency action emanated from and is administered from Tallahassee, Florida.

7. Plaintiffs have satisfied, exhausted, or are excused from exhausting their administrative remedies.

8. Declaratory relief is necessary to prevent immediate and irreparable harm, to restrain ongoing unlawful agency action, and to resolve purely legal questions concerning Defendant’s statutory authority and compliance with Florida’s emergency rulemaking requirements.

STATEMENT OF FACTS

9. The Ryan White HIV/AIDS Program (“RWHAP”), administered by the U.S. Department of Health and Human Services through the Health Resources and Services Administration, provides grants to states to deliver life-saving medical care and medications to low-income individuals living with HIV.

10. ADAP, funded under RWHAP Part B, provides FDA-approved HIV medications and health insurance premium assistance to eligible individuals.

11. Continuous access to these benefits is medically necessary to prevent viral rebound, drug resistance, hospitalization, and death.

12. AHF is the largest AIDS service organization in the world and provides healthcare services to more than two million individuals, including thousands of patients in Florida eligible for benefits under the Ryan White HIV/AIDS Program and the AIDS Drug Assistance Program (“ADAP”).

13. Florida receives substantial federal funding to administer ADAP.

14. In fiscal year 2024 alone, Florida received more than \$84 million in ADAP funding and more than \$134 million in total RWHAP Part B funding.

15. Defendant administers federal Ryan White Part B funds received by the State of Florida, including ADAP funding.

16. Defendant has promulgated rules governing ADAP eligibility in Chapter 64D-4, Florida Administrative Code (the “Eligibility Rules”).

17. Under the Eligibility Rules, income is the central and dispositive criterion for access to ADAP benefits.

18. The Eligibility Rules expressly condition eligibility for both direct medication assistance and insurance premium assistance on whether an applicant’s adjusted gross household income falls at or below the applicable percentage of the Federal Poverty Level (the “FPL”).

19. Individuals who satisfy the income threshold are deemed “low income” and, if they meet the remaining non-income criteria, are eligible to receive ADAP benefits.

20. Conversely, individuals whose income exceeds the rule-based threshold are ineligible.

21. The income definition therefore operates as the primary gatekeeping mechanism for ADAP eligibility under Florida law.

22. Since 2008, the Eligibility Rules define “low income” as household income at or below 400% of the FPL.

23. In January 2026, without initiating or completing rulemaking under Section 120.54, Florida Statutes, Defendant began issuing letters to ADAP recipients stating that: (a) individuals with income above 130% of the FPL would no longer be eligible for ADAP medication services; (b) all individuals receiving health insurance premium assistance would lose that assistance effective March 1, 2026; and (c) eligibility standards set forth in the Eligibility Rules would no longer apply.

24. Defendant simultaneously published public-facing statements, including website content and statements by the State Surgeon General, confirming the same eligibility restrictions.

25. These statements apply uniformly to a broad class of ADAP recipients statewide and are not advisory, individualized, or discretionary. Rather, they have an immediate, binding effect.

26. According to national estimates, more than 16,000 HIV-positive Floridians will lose ADAP coverage as a result of Defendant’s announced policy change.

27. On January 26, 2026, Plaintiffs filed their Petition Challenging Agency Statements as Unpromulgated Rules at the Division of Administrative Hearings (“DOAH”) pursuant to section 120.56(4), Florida Statutes (the “Petition”), challenging Defendant’s actions and statements as an unadopted rule. Within this filing, Plaintiffs requested an expedited hearing.

28. An expedited hearing was scheduled to occur on February 19, 2026. However, on February 11, 2026, Defendant filed a notice of proposed rule in Florida Administrative Register Volume 52, Number 28, and invoked the automatic stay provision found in section 120.56(4)(b), Florida Statutes. These actions stayed the DOAH proceeding.

29. Upon information and belief, Defendant still intended (and does intend) to enforce the new eligibility restrictions on March 1, 2026. As such, Plaintiffs filed a motion to lift the stay in Florida's Administrative Court System based on Defendant's anticipated enforcement of the new eligibility restrictions before rulemaking was complete. Plaintiff's motion was set to be heard on February 25, 2026.

30. On February 24, 2026, the day before the hearing, Defendant filed Emergency Rules 64DER26-1, 64DER26-2, and 64DER26-3 ("Emergency Rules"), mooted Plaintiff's unadopted rule challenge and motion to vacate the stay.

31. The Emergency Rules narrow eligibility criteria and disqualify numerous current participants in the ADAP program.

32. The Emergency Rules assert that Defendant cannot fund the program "as is" for "the remainder of the calendar year."

33. The Emergency Rules further allege that Defendant "could" be required to terminate funding for all covered individuals if the eligibility criteria are not restricted.

34. Plaintiffs have filed a Petition to Invalidate the Emergency Rules pursuant to § 120.56(5), Florida Statutes, as an invalid exercise of delegated authority, which is currently pending before DOAH (Case No. 26-1089RE) (the "Emergency Rules Petition"). However, the Emergency Rules Petition will not be heard, nor will a decision be rendered, prior to Defendant's enforcement of the Emergency Rules.

35. Recipient One is currently receiving benefits through ADAP for health insurance premium assistance and medication coverage. Recipient One will lose this coverage effective March 1, 2026, based upon the Emergency Rules. Recipient One faces immediate and irreparable harm.

36. AHF provides services to many of the affected individuals and is contractually and operationally impacted by Defendant's unlawful policy.

37. AHF faces immediate harm to its patients, contractual obligations, and mission.

38. As a result, Defendant is enforcing the invalid Emergency Rules before any final administrative determination regarding the veracity of the claimed emergency circumstances, resulting in immediate and irreparable harm to AHF, Recipient One, and the vulnerable Floridians AHF serves.

39. Circuit Court intervention is therefore necessary to determine the legality of Defendant's actions and to prevent enforcement of invalid, ultra vires Emergency Rules.

COUNT I
DECLARATORY RELIEF
(Sections 26.012, 86.011, and 120.54, Florida Statutes)

The allegations contained in paragraphs 1 through 39 are restated and re-alleged in their entirety as if fully set forth herein.

40. An actual, present, and justiciable dispute exists between Plaintiffs and Defendant regarding the legality and immediate enforceability of the Emergency Rules.

41. Section 120.54(4), Florida Statutes, authorizes emergency rulemaking only where an immediate danger to the public health, safety, or welfare requires emergency action and where specific facts demonstrate the necessity of emergency action.

42. The alleged funding concerns cited in the Emergency Rules were known at the time Defendant initiated standard rulemaking and well before Defendant's Emergency Rules.

43. Defendant fails to identify a date certain when funds will be exhausted.

44. Defendant's issuance of the NPRM demonstrates that it did not consider the situation to require immediate emergency action.

45. No intervening event occurred in the days between the NPRM and the Emergency Rules that created an emergency.

46. A known fiscal condition cannot be transformed into a sudden emergency absent a newly arising event.

47. Because no immediate danger arose during that period, Defendant lacked authority to invoke Section 120.54(4).

48. Defendant issued the Emergency Rules without complying with mandatory procedures under section 120.54(4), Florida Statutes.

49. As a result, Defendant lacked authority to promulgate the Emergency Rules. .

50. Declaratory relief will resolve the legal uncertainty, clarify the parties' rights and obligations, and serve the public interest.

51. Without declaratory relief, DOH will continue enforcing the invalid Emergency Rules, resulting in immediate and irreparable harm to vulnerable patients and to Plaintiffs.

WHEREFORE, Plaintiffs seek a declaratory judgment that: (a) Defendant's Emergency Rules were implemented without compliance with mandatory rulemaking procedures set forth in section 120.54(4), Florida Statutes; and (c) the Emergency Rules are an invalid and unenforceable as a matter of law. Plaintiffs also request an award of attorneys' fees and costs, and such other and further relief as this Court may deem just, proper, and equitable.

COUNT II
DECLARATORY JUDGMENT
(Ultra Vires and Unlawful Agency Action)

The allegations contained in paragraphs 1 through 39 are restated and re-alleged in their entirety as if fully set forth herein.

52. An actual, present, and justiciable dispute exists between Plaintiffs and Defendant regarding the legality and enforceability of the Emergency Rules.

53. Defendant's actions exceed its delegated authority without satisfying statutory conditions precedent.

54. Agency action taken without statutory authority or in violation of the APA is ultra vires and unlawful.

55. By invoking emergency rulemaking without the existence of an immediate danger and without specific factual findings demonstrating the necessity of the Emergency Rules, Defendant acted beyond the scope of its legislatively delegated authority.

56. Declaratory relief will resolve the legal uncertainty, clarify the parties' rights and obligations, and serve the public interest.

57. Without declaratory relief, Defendant will continue enforcing the Emergency Rules, resulting in immediate and irreparable harm to vulnerable patients and to Plaintiffs.

WHEREFORE, Plaintiffs seek a declaratory judgment that: (a) Defendant exceeded its statutory authority in promulgating the Emergency Rules; (b) the Emergency Rules are ultra vires, an unlawful agency action, and void; and (d) Defendant may not enforce the Emergency Rules.

Respectfully Submitted: February 26, 2026.

PANZA, MAURER & MAYNARD, P.A.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed and served on February 26, 2026, via the Florida Courts E-Filing Portal to:

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