

**IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND**

SHARON BAUER, )  
[REDACTED] )  
[REDACTED], )  
and )  
RICHARD JURGENA, )  
[REDACTED] )  
[REDACTED] )  
Plaintiffs, )  
v. )  
MARC ELRICH, in his official capacity )  
as Montgomery County Executive, )  
101 Monroe Street, 2nd Floor )  
Rockville, MD 20850, )  
and )  
RAYMOND L. CROWEL, in his official )  
capacity as Director of Montgomery County )  
Department of Health and Human Services, )  
401 Hungerford Drive )  
Rockville, MD 20850, )  
Defendant. )  
\_\_\_\_\_ )

Civil Action No.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs Sharon Bauer and Richard Jurgena, Montgomery County taxpayers, seeks to enjoin Defendants Marc Elrich and Raymond L. Crowel from using taxpayer monies for cash payments to unlawfully present aliens in violation of federal law as well as expending additional, taxpayer monies and resources to oversee and administer those payments.

**JURISDICTION AND VENUE**

1. Jurisdiction is proper pursuant to Sections 1-501, 3-403, and 6-102 of the Courts

and Judicial Proceedings Article of the Maryland Code Annotated, among other applicable provisions.

2. Venue is proper in this judicial circuit pursuant to Section 6-201 of the Courts and Judicial Proceedings Article of the Maryland Code Annotated, among other applicable provisions.

### **PARTIES**

3. Plaintiff Sharon Bauer is a taxpayer of Montgomery County. Plaintiff has paid and will continue to pay taxes to Montgomery County.

4. Plaintiff Richard Jurgena is a taxpayer of Montgomery County. Plaintiff has paid and will continue to pay taxes to Montgomery County.

5. As taxpayers, Plaintiffs have the right to initiate a suit in equity to enjoin illegal acts of public officials where those acts are reasonably likely to result in pecuniary loss to the taxpayers. *Floyd v. Mayor of Baltimore*, 463 Md. 226, 242 (2019).

6. Defendant Elrich is the Montgomery County Executive. As County Executive, Elrich is the chief executive officer of the county. Md. Local Government Code Ann. § 9-113(a)(2). Elrich also created a new initiative using taxpayer monies for cash payments to unlawfully present aliens, authorized the monies to be disbursed, and directed Defendant Crowel to oversee and administer the disbursement.

7. Defendant Raymond L. Crowel is the Director of the Montgomery County Department of Health and Human Services (“DHSS”). DHSS is charged with overseeing and administering the disbursement of taxpayer monies to unlawfully present aliens. As Director, Crowel is the head of DHHS.

8. Defendants Elrich and Crowel are sued in their official capacities only.

## LEGAL FRAMEWORK

9. Under federal law, unlawfully present aliens generally are ineligible for State or local public benefits. 8 U.S.C. § 1621(a). With certain exceptions not relevant here, the term “State or local public benefit” means:

- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and
- (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

8 U.S.C. § 1621(c). However, a “State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit ... only through the enactment of a State law ... which affirmatively provides for such eligibility.” 8 U.S.C. § 1621(d).

## STATEMENT OF FACTS

10. On April 15, 2020 County Executive Elrich stated that Montgomery County would soon provide \$5 million of support to individuals who do not qualify for unemployment insurance or other benefits. He also stated unlawfully present aliens do not qualify for unemployment insurance or other benefits.

11. On April 27, 2020, Montgomery County released a press statement announcing a new initiative to provide cash payments to certain Montgomery County residents. The initiative is known as the “Emergency Assistance Relief Payment Program” or “EARP.”

12. According to the press statement, “[a]pproximately \$2.5 million will be disbursed to residents by [DHHS] and another \$2.5 million will be targeted to individuals and families served by nonprofit organizations in the community. Funding for the initiative is based on

actions by County Executive Marc Elrich and the County Council.”

13. The County Council released a press statement on April 30, 2020 that it had approved the \$5 million appropriation from the General Fund. According to the Montgomery Operating Budget, the General Fund is comprised entirely of taxpayer monies.

14. DHHS created a website providing additional information about EARP.

According to DHHS, the payments under EARP are:

- Single Adult - \$500;
- Family with one child - \$1,000;
- Families with children - \$1,000 (family with one child) with an additional \$150 for each additional child, with a maximum of \$1,450;
- Head of household should be 18 years or older, the claimed child should be less and not equal to 19 years old; and
- The benefit increases by \$150 per child to a maximum of \$1,450.

15. The DHHS website also states that these payments are grants, not loans, and do not have to be paid back by the individuals or families.

16. The DHHS website also identifies eligibility for payment. An individual must:

- not be eligible to file for Federal or State taxes;
- not have filed nor are eligible to receive unemployment;
- have an annual income below 50% of the federal poverty level; and
- must be a Montgomery County resident.

17. Based on the narrow set of eligibility criteria, unlawfully present aliens will be the primary – if not exclusive – recipients of EARP’s cash payments.

18. After County Executive Elrich announced the creation of EARP, DHHS spokesperson Mary Anderson stated unlawfully present aliens are eligible to apply for and

receive cash payments.

19. DHHS will begin providing payment checks during the week of May 4, 2020 and anticipates disbursing the \$5 million by the end of May 2020.

### **COUNT ONE**

20. Plaintiffs incorporate by reference and reallege all their prior allegations.

21. Defendants' program provides for cash payments of at least \$500 to unlawfully present aliens starting May 4, 2020. These payments are local public benefits as defined by 8 U.S.C. § 1621(c).

22. The Maryland General Assembly has not enacted a State law affirmatively granting Defendants the authority to provide cash payments to unlawfully present aliens.

23. Defendants' program to disburse direct cash payments to unlawfully present aliens violates 8 U.S.C. 1621(a).

24. The payments are therefore illegal, and the \$5 million to be disbursed by Defendants are taxpayer funds.

25. Similarly, any county taxpayer funds used to oversee and administer those payments are illegal.

26. As a proximate result of Defendants' violation of federal law, taxpayers in Montgomery County, including Plaintiffs, are suffering and will suffer pecuniary injury and will continue to suffer such injury unless and until Defendants are enjoined from providing cash payments to unlawfully present aliens.

27. Plaintiffs have no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for the following relief against Defendants:

1. A judgment declaring the direct assistance Defendants intend to provide to unlawfully present aliens violates 8 U.S.C. § 1621;
2. An injunction permanently prohibiting Defendants from using taxpayer funds and taxpayer-financed resources to provide direct assistance to unlawfully present aliens;
3. To the extent allowed by law, an award of attorneys' fees and other litigation costs reasonably incurred in this action; and
4. Such other relief as this Court deems just and proper.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: May 8, 2020

Respectfully Submitted,

/s/ Eric W. Lee \_\_\_\_\_  
Eric W. Lee (Md. Bar No. 1612140001)  
Michael Bekesha (*Pro Hac Vice* Pending)  
JUDICIAL WATCH, INC.  
425 Third Street, S.W., Suite 800  
Washington, DC 20024  
Tel: (202) 646-5172  
Email: [elee@judicialwatch.org](mailto:elee@judicialwatch.org)  
[mbekesha@judicialwatch.org](mailto:mbekesha@judicialwatch.org)

*Counsel for Plaintiffs*