



## SA Childcare Association *Stronger Together!*

### **Minister of Social Development and MECs in High Court on 7<sup>th</sup> and 8<sup>th</sup> October**

On 7<sup>th</sup> and 8<sup>th</sup> October, SA Childcare and 7 others from all across South Africa are taking the Minister of Social Development back to court. This time her MECs will also be called to account. One of the issues before the court is the withholding of subsidies by the Department of Social Development which feed young, vulnerable children and babies at early childhood development centres in the poorest areas of South Africa.

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Despite undertakings in her COVID lockdown regulations to pay subsidies to the centres during lockdown, the Minister and all the MECs except the MEC in the Western Cape have failed to pay the subsidies that were earmarked to feed and care for 700 000 of the most vulnerable young children. In the Eastern Cape the ECD practitioners and the children that they feed are literally starving. Food parcels haven't reached them and without the intervention of Rhodes University they would have no food at all. The Department of Social Development subsidizes feeding schemes for little children, which continued in the Western Cape during lockdown as per lockdown regulations, but in the Eastern Cape the centres haven't received one cent of their conditional grant money since January. This is in an area where children were experiencing severe malnutrition and stunting *before lockdown*. The meals the babies and small children received at the centres were often their only food for the day.

In court papers the Eastern Cape MEC alleges that she has paid a portion of the subsidy, but the Reverend Magadla (representing 320 centres across the Eastern Cape) says the centres haven't received anything, despite numerous assurances that the subsidies will be forthcoming. Without the subsidies they cannot open, and thousands of children remain neglected and hungry.

The applicants in Kwa Zulu Natal, the Feed the Babies Fund, are unable to get the food they provide to babies and small children at centres in the rural areas because the Department of Social Development officials have threatened the ECD centres with jail time, and have even torn up their registration certificates, intimidating and frightening them in order to keep them closed. The babies in the program can't get their food and the centres are desperate.

In Soshanguve in Gauteng, the Department has withheld subsidies from hundreds of ECD centres because of an administrative glitch regarding their health certificates, leaving about 20 000 vulnerable babies and small children neglected and hungry. The problems with the health certificates can't be fixed while government is partially functioning during lockdown, and there's no hope that the subsidies will get to the children in the foreseeable future unless a judge intervenes.

Across the country officials have utilized the COVID Directions issued by the Minister of Social Development to keep centres closed. The Directions are confusing, complex and impose enormous recurring costs on centres, which after 6 months of closure, with no fees, can barely survive. After months of silence, the Minister used Directions to impose a massive registration drive on the sector, using COVID as a method of intimidation and coercion when what the sector desperately needs is support. The applicants have asked the judge to declare these provisions unconstitutional and to make an order declaring that only the Childrens Act can be used for registration purposes, not regulations designed to combat a pandemic.

By the Minister's own admission in court papers, nutritional subsidies were withheld in multiple provinces because children should have been cared for by their families. These are the same children who had been identified by a means test as being the ones whose families could specifically not care for or feed sufficiently *before lockdown*.

But yet, they were deprived of feeding and support at a time when the whole country was experiencing shockwaves of hunger and unemployment.

The second wave of the NIDS-CRAM data was released on 30 September and it paints a bleak picture for the ECD sector. The report shows that by the end of July, the sector was operating at less than a quarter of its pre-lockdown levels and only 5% of the children who used to attend ECD programmes are back at centres. Without any government support, along with withholding of subsidies, intimidation and onerous regulations, the numbers haven't improved. 55% of centres remain temporarily closed and 14% of centres have permanently closed their doors. Children can't access the centres because overwhelmingly the centres remain closed despite a high court decision on 6 July that they could reopen. The data shows that 1.5 million children who used to attend ECD programmes can no longer access the centres. To quote Dr Gabrielle Wills, one of the researchers on the study,

“The temporary closure of ECD programmes doesn't only affect child care; it has far-reaching implications for child development, job losses in the sector and government spending. Quite simply, SA cannot afford to have this sector fold. A swift intervention is needed to save it, and limit the ripple effect of programme closures on multiple layers of society.”

The Minister will have to account for her role and that of her MECs in this tragedy before court next week.

The applicants in the case are:

SA Childcare, represented by Anton and Arno van der Mewer

Centre for Early Childhood Development, represented by Prof Eric Atmore

Reverend Magadla representing Eastern Cape ECDs

Soshanguve Forum (Gauteng)

Bonang Day Care

Busy Bee Creche

Feed the Babies Fund

The Communities and Responsible Care Organisation

Expert evidence:

Prof Atmore, Prof Mark Tomlinson, Prof Servaas van der Berg, Prof Jeremy Seekings,

Prof Peter Cooper, Ms Gerda Kriel

Counsel: Adv. Lourens

Attorneys: Antonie van Wyk, Elisabeth van Wyk (Administrative Law Consultant)

Van Wyk and Associates



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