# MI SILC Executive Committee

01/30/2023 1000 Meeting

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>> CHAIR JAN LAMPMAN: So, I would like to call this meeting to order. I don't have the agenda in front of me but it's a short one item agenda, so I'll start by asking if there are any accommodation requests at this time? Okay. Seeing none, Tracy, can you do the Roll Call really quick, please?

>> TRACY BROWN: Sure. Jan Lampman.

>> CHAIR JAN LAMPMAN: Here.

>> TRACY BROWN: Jamia Davis.

>> JAMIA DAVIS: Here.

>> TRACY BROWN: Stephanie Deible.

>> STEPHANIE DEIBLE: Here.

>> TRACY BROWN: Aaron Andres.

>> AARON ANDRES: Present.

>> TRACY BROWN: You have a quorum.

>> CHAIR JAN LAMPMAN: Thank you very much. I would entertain a motion to approve this one item agenda.

>> AARON ANDRES: Motion to approve the agenda as presented.

>> CHAIR JAN LAMPMAN: Do we have a second?

>> STEPHANIE DEIBLE: I second the motion to approve the agenda.

>> CHAIR JAN LAMPMAN: I think there are few enough so that we don't have to call a Roll Call vote. All in favor please say aye.

>> IN UNISON: Aye.

>> CHAIR JAN LAMPMAN: Any opposed? Awesome, we will go forward. And I would like to ask Steve to give me explanation as to how we got to this request if that's okay. And what the request is.

>> STEVE LOCKE: Absolutely, I'm going to share my screen and share the amicus brief. Two weeks ago, the Detroit branch of the ACLU reached to the SILC and asked if we would sign onto the amicus brief that has to do with the Michigan auto no-fault reforms that went into place. I'm sure you are familiar with the catastrophic claims fund and the -- auto no fault back in 2019. You can select three levels of catastrophic coverage, including unlimited. What happened in the legislation in 2019 you could still select that unlimited catastrophic coverage; however, in the law they capped the amount of payment they would pay out for certain types of services. So, they were at a certain percentage. I've got the allow you here if y'all want to see it.

For some services they reduced down to 57 of what they would ordinarily pay. 56% 53%. Some reduced to 27.5% of what they would ordinarily pay. The issue is those reduction payment amounts for certain types of services but what's happening -- let me scroll down here in the amicus brief for you really quick is the ACLU has taken issue with the auto insurance industry.

The auto insurance industry has taken this to court because they want those payment limitations to now be retroactive prior to the public law taking effect and that would impact over 18,000 claims that were open prior to the new law taking effect. So the ACLU is asking SILC to sign onto this amicus brief which is asking the question as a matter of statutory interpretation, claimants affected before the date are subject to the limitations on benefits set forth in Michigan compiled laws 500.31577 and 10. When the defendants, which is the auto industry, got taken to court, the Court of Appeals said no, this law cannot be applied retroactively to claims that were in place prior to the enactment of this law.

The defendants or the appellants which is the auto industry folks said yes, it should be applied retroactively, and the plaintiffs and others have said no. What they are asking the Michigan Supreme Court to do is make a ruling that these reduction and payment amounts are not retroactive to people that the legitimate claim before this law taking effect. January and I researched and looked understood advocacy versus lobbying. We do not believe this is an action of lobbying.

One of my peers from the Indiana SILC, their SILC had signed onto an amicus brief, and she sent me findings from a nonprofit association that delineated between lobbying from a legislative action and advocating from a judicial perspective. When we sign on it is not seen as lobbying. It's seen as advocacy because we're not asking for vote on a particular piece of legislation. We're asking for an interpretation of legislation that's already been passed.

So, Jan and I are really confident that we are within our authorities to do this. Another question that might come up is while this is not in the current SPIL, what authorities did you say the SILC have to engage in this activity and I will pull your attention to the IL regular Aye relations. Section -- that states SILCs may perform such other functions consistent with the purpose of this part and comparable with other functions described as 705 C of the act as council determines to be appropriate and authorized within the approved SPIL and that gives us a wide thing that the council can do in terms of Independent Living and I had a lengthy phone call with Regina before we left ACLU a year and a half on the ground and she said that blush gives you a lot of leeway in things that the council can do when things pop up that are not expressly related to the SPIL.

The Executive Committee is empowered to conduct business between council business meetings and can authorize the council to submit a statement to sign onto this amicus brief. If we're going to be signatories on the amicus brief, I would like to share with you exactly what that would look like. Let me share this really quick.

Here is the email and I have vetted this with January already. ACLU wanted a two or three sentence statement as to who the council we're not going to state we support this. Our signature as the council is going doing on it and then there will be a description of what the council does in the amicus brief and so the Superior Court justices know the role, we play in the disability space.

[ Reading]

>> STEVE LOCKE: So that's what's before you today that we're asking you to vote thumbs up or thumbs down on SILC signing onto this. The deadline for us to submit this is tomorrow as they want to have this amicus brief filed by February 6th. Please know that the amicus brief that I forwarded to you this morning is still confidential. It's not for public distribution yet. I don't think it's in its final format, but we will put it up on our website because it is an action that you're taking today. Probably closer to February 6th but I'm going to be in touch with Dan right after this meeting to find out if it's okay. He knows that we're a public body and we had to go through this voting process in order to sign on or at least offer some support in some way.

>> AARON ANDRES: I have a couple questions. One. So essentially, one of the appellate courts have said it can't be retroactive. The insurance company has it and this is just to give our votes toward it not being retroactive? That's the first question.

>> STEVE LOCKE: That's correct, Aaron.

>> AARON ANDRES: Okay. And one of our new council Members, Emily -- CIL her name is Emily -- had something to do with the no folds Regulations or implementation. And has she said anything to anybody regarding this amicus brief or have we had a chance to ask her about it or not?

>> CHAIR JAN LAMPMAN: So, Aaron, I'm going to field that question. We have not talked to Emily. However, I also was very involved with the new legislation. And so, the question really is, I mean, the law is the law, right? The new law is the law. The question is, did, when they made that law did, they put a clause in there that says this is going to be retroactive before the law was in effect. They were saying no, and the insurance companies are saying it's retroactive.

>> AARON ANDRES: Okay.

>> CHAIR JAN LAMPMAN: So, what's already happened for lots of people who had a claim prior to the law taking effect, they have already seen their insurance companies reducing their benefits based on this new law. So, this lawsuit was filed to try to protect that group of people because they, you know, again, nobody told -- you know, the law is not retroactive according to that. So, our position as a SILC signing onto the brief would be that we agree that you have to tell people if they are going to lose their benefit, right?

>> AARON ANDRES: All right. Okay. Thank you for the explanation.

>> CHAIR JAN LAMPMAN: Yeah. You're welcome. Any other questions or discussion at this time? You're on mute.

>> STEPHANIE DEIBLE: My one question was the distinct between advocacy and lobbying and you covered it. Thank you.

>> CHAIR JAN LAMPMAN: Thank you. I would say in terms of connecting it to the SPIL or is it connected or not? It is not a whole lot different in essence than when we sat at the table with MRS and the CILs. This is the same sort of thing, right?

We know that there's a whole group of people who have been able to really create lives for themselves in the community in their own homes, independently, through that no fault insurance, right? And if those benefits get reduced or cut, that that's going to have an impact on their ability to continue that life, right? And so that's how it fits in, I think, with our directive as a SILC.

>> JAMIA DAVIS: I was going to ask -- it mentioned in the brief other things within our SPIL, and it's price related for sure.

>> CHAIR JAN LAMPMAN: Thank you for that Jamia.

>> JAMIA DAVIS: Uh-huh.

>> CHAIR JAN LAMPMAN: If there's any other questions or discussion, if not we can call the vote. Okay. At this time, we'll call the vote. Let's do this as a Roll Call vote because we should.

>> STEVE LOCKE: Was there a motion and a second on this yet?

>> CHAIR JAN LAMPMAN: Yep. I'm sorry. No. No. No. You're right. I was thinking there was. No, we have had had a motion. To I entertain a motion to sign the amicus brief.

>> JAMIA DAVIS: This is Jamia Davis, and I motion to sign the amicus brief.

>> CHAIR JAN LAMPMAN: Do we have a second?

>> AARON ANDRES: I will second.

>> CHAIR JAN LAMPMAN: We will call the vote.

>> TRACY BROWN: Jamia Davis.

>> JAMIA DAVIS: Yes.

>> TRACY BROWN: Stephanie Deible.

>> STEPHANIE DEIBLE: Yes.

>> TRACY BROWN: Aaron Andres.

>> AARON ANDRES: Yes.

>> TRACY BROWN: Jan Lampman.

>> CHAIR JAN LAMPMAN: Yes.

>> TRACY BROWN: Motion carries.

>> CHAIR JAN LAMPMAN: I would like to entertain comments? Seeing none, I would entertain a motion to adjourn.

>> AARON ANDRES: Motion to adjourn.

>> CHAIR JAN LAMPMAN: Second?

>> STEPHANIE DEIBLE: Second.

>> CHAIR JAN LAMPMAN: All in favor say Aye?

>> IN UNISON: Aye.

>> CHAIR JAN LAMPMAN: Opposed? Seeing no opposition, we will call this meeting adjourned.

[ Meeting concludes]