

# Detroit Free Press

## CAREGIVERS FIGHT UNION DUES



SUSAN TUSA/Detroit Free Press

Michelle Berry checks 6-year-old Sheila Dugdale's hands to make sure they are clean before lunch at her home day care center in Flint. On the left is Dominique Stevenson, 8, and in Berry's arms is 11-month-old Jaden Brandon.

### They work at home, negotiate pay, set hours

By **DAWSON BELL**  
FREE PRESS STAFF WRITER

For 16 months, every check the state writes to thousands of home day care providers who watch over children whose parents get government help has had a few bucks missing.

If the check is for \$400, \$4.60 (1.15%), is taken out. Union dues.

All told, the workers — whose pay and benefits have remained static — fortify the revenues of the UAW and AFSCME by as much as \$3.7 million a year.

What some don't understand is why they're in a union at all. They work in their own homes. They negotiate pay with parents. They set their own hours and working conditions.

But under a deal hatched in 2006, home day care providers who accept public subsidies are members of a joint UAW-AFSCME unit called Child Care Pro-

viders Working Together. And they must pay union dues.

A group of them is suing to stop it, claiming the administration of Gov. Jennifer Granholm and politically powerful union officials conspired to create a mythical labor-management relationship as part of a national union strategy to organize new workers.

The suit was sent to the Michigan Supreme Court in March.

Granholm administration and union officials say the arrangement will improve child day care quality.

Exactly how is less clear. The union and the agency created to negotiate a contract have no authority to set rates or provide benefits.

Plaintiff Michelle Berry says the whole thing is a scam.

"I don't work for the state. I work for my families."

■ **HOW THE CHILD CARE PROVIDERS UNION FORMED. 6A**

# Union offered pay, benefits

But some home day care providers say they have nothing but dues to pay

By **DAWSON BELL**  
FREE PRESS STAFF WRITER

Michelle Berry can't recall the exact date a group of union representatives knocked on the door of her home day care center in Flint in the spring of 2006.

But she remembers that they wanted to know if she was interested in an organizing effort for day cares that would lead to higher pay and the possibility of health insurance coverage.

"It didn't make sense," Berry recalls. "I said, 'No, thanks. I'm trying to run my business. I'll see you later.'"

Fast forward to December 2008 when a notification arrived in Berry's mail that said, in effect: "Congratulations. You're now a union member."

Soon after that, the check she got from the state Department of Human Services for federal day care subsidies shrank by 1.15% (\$1.15 per \$100 she is paid), thanks to the mandatory deduction of union dues.

Berry was angry. In the ensuing months, she said she tried unsuccessfully to reach union and state officials to find out what was happening.

Today, she is among three primary plaintiffs in a lawsuit against the state for what they describe as an illegal, stealth undertaking to manufacture a labor-management relationship out of whole cloth.

Representatives of the union and DHS insist the creation of Child Care Providers Working Together, and the management agency authorized by DHS to bargain with CCPWT, was a straightforward effort to improve day care services to Michigan children.

## 40,000 day care providers

Organizers from the UAW and AFSCME said they collected signatures of more than 22,000 day care providers (out of more than 40,000 estimated to care for subsidized kids) to call an election. In a subsequent mail ballot,



Jaden Brandon, 11 months, plays with books while Kendall Schaezner, 1, chews on one on April 1 at Michelle Berry's home in Flint. Berry runs a home day care business. She says she was forced into membership in a state day care providers union.

SUSAN TUSA/Detroit Free Press

92% of the 6,400 who participated endorsed the union.

Berry and her co-plaintiffs said they didn't get a ballot.

Union organizer and home day care operator Pam Stewart of Benton Harbor said last week the disgruntled providers probably mistook ballots for junk mail and tossed them. She said the creation of the union was a "wonderful thing."

"We now have someone to go to when we have a problem," she said.

Stewart acknowledges the Child Care Providers is an orthodox creature in the universe of labor-management relations. She said she doesn't consider herself an employee of either the state or the Michigan Home Based Child Care Council, the two-person agency the state created to bargain with the union.

Changes in the subsidy payments negotiated in the union's first contract — some went up; some went down — aren't binding on state gov-

ernment, she conceded. And efforts to develop a health care plan have gone nowhere because "it's such a big expense," she said.

Overall, day care subsidies in Michigan are down more than \$130 million in 2010, to \$248 million, because of the state's financial crisis.

"It's not our fault the state took a nosedive," Stewart said.

She said she doesn't understand grievances voiced by Berry, her co-plaintiffs and the Mackinac Center Legal Foundation. The company, which bills itself as a free market, public interest law firm, filed the state lawsuit.

"If they're unhappy, they can get out of the union and not take state (subsidized) kids," she said.

## Limited authority

Mackinac Center attorney Patrick Wright said trouble was almost inevitable because of the nature of the unionization effort. Without a traditional employer-employ-

ee relationship, the union and the Home Based Child Care Council have limited authority, he said.

In other states where unions have organized day care providers — such as Illinois and New York — the effort was undertaken through established channels in which the governor recognized the union as an official bargaining agent.

"It's bad policy," Wright said, "but it's bad policy legally enacted."

In Michigan, the Child Care Council did not respond to multiple requests for comment.

Department of Human Services spokesman Edward Woods III said he could not discuss the administration's role in the creation of the council or the union organizing effort because of the pending litigation. In an e-mail, Woods said the purpose of the council was to "improve the quality of home-based child care in Michigan."

When the union was recog-

nized in 2006, AFSCME representative James Parks wrote that "the victory showed the close connection between politics and workers' freedom to form a union. The child care workers were able to join the union because Gov. Jennifer Granholm, who was re-elected with strong working family support, earlier this year signed a measure to allow union representation" (an apparent reference to DHS recognition of the Child Care Council).

The Child Care Council's status remains up in the air. The Legislature removed its funding in the 2010 budget. But it continues to operate under a contract agreed to by DHS. Woods said the department was not obligated to cut off funding because the Legislature had not included specific language to do so.

## Case sent to Supreme Court

Late last month, Berry and her co-plaintiffs asked the Michigan Supreme Court to review an appeals court deci-

## Protests lodged with courts

The unionization of Michigan's home day care operators is being challenged by lawsuits in state and federal courts. Here's a look at the cases:

■ Three operators backed by the Mackinac Center Legal Foundation sued in the state Court of Appeals last year, arguing the union was created illegally and seeking an end to compulsory membership and dues. The lawsuit was dismissed in February. But the plaintiffs have asked the Michigan Supreme Court to hear an appeal. If they win, dues collection would presumably be suspended for the plaintiffs and possibly all the day care operators.

■ In U.S. District Court in Grand Rapids, the owners of four home-based day cares (with legal assistance from the National Right to Work Legal Defense Foundation) claim mandatory unionization violates their right of free association — or, in this instance, the right not to associate with the union. Their action, filed in February, seeks class action status, an end to dues collection and reimbursement of dues paid.

— DAWSON BELL

sion dismissing their lawsuit. A ruling is expected in two months.

In the meantime, Berry said she still bristles at the dues deduction from her state subsidy check. It cost her about \$500 in 2009, she said.

She lives in a union town and counts many union members among her relatives. Berry belonged to the Michigan Education Association when she drove a school bus and says she's not anti-union.

"But when you enter my home, I work for myself. I work for my families," she said.

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