



## **FOR IMMEDIATE RELEASE**

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### **Human Services Department Found in Contempt, Federal Magistrate Recommends Special Master Oversee Food and Medical Assistance**

Las Cruces, NM – On Friday, July 15, 2016, Federal Magistrate Carmen Garza entered proposed findings that the NM Human Services Department (HSD) be held in contempt for failure to comply with multiple Court Orders and federal law concerning administration of food and medical assistance to eligible families. Judge Garza found that “it is apparent that HSD and its officials have not exhibited the leadership, oversight, or coordination necessary to implement the Court Orders.” Judge recommended the appointment of a Special Master with expertise in food and medical assistance be appointed to facilitate HSD’s compliance with federal law and Court Orders.

The Order comes after three days of evidentiary hearings about HSD’s failure to provide food and medical assistance to families as required by federal law. Judge Garza noted numerous violations of federal law and Court Orders by HSD, finding that worker trainings and notices to families applying for food and medical assistance are “replete with repeated mistakes” and that HSD had not brought state regulations and policies into compliance with federal law. Nor could HSD tell the Court when compliance would be achieved. The Court further noted that testimony by HSD employees that HSD staff have been altering application in order to deny eligible applicants emergency food benefits and improve HSD’s timeliness statistics “was essentially not refuted.”

In entering a finding that the Secretary Brent Earnest should be held in Contempt, Judge Garza noted the Department’s recent willingness to seek expert assistance, stating “While the Court appreciates this acknowledgement, the Court is troubled it took over thirty hours of status conferences, over five hundred pages of joint status reports submitted to the Court, three days of evidentiary hearings on its Order to Show Cause, and testimony by HSD employees alleging fraud on the part of HSD, to which high level officials responded by pleading the fifth, for Defendant to discuss making these types of changes. For the question before the Court, Defendant’s realization has come entirely too late.”

As a remedy for contempt, Judge Garza recommends that the Court appoint and supervise a Special Master to act as a full time advisor and consultant to HSD. The Special Masters will have

expertise in food and medical assistance programs and will report to the Court on the extent of the Department's compliance.

Judge Garza stated "Defendant's inability to fully bring his application processing practices into compliance with the Court Orders has profound effects on the citizens of New Mexico. Indeed, when an eligible SNAP or Medicaid applicant is denied or delayed in receiving benefits, that individual loses benefits he or she may rely on to eat, feed his or her children, or to receive essential medical coverage . . . It is essential for this Court to acknowledge the need for these services to be effectively, efficiently and properly rendered to those who are eligible in this state."

Attorneys at the Center and Law and Poverty, along with co-counsel Daniel Yohalem and Jane Yohalem, represent the class of plaintiff applicants for food and medical assistance in the case. Gail Evans, Legal Director at the NM Center on Law and Poverty stated, "We are pleased that the Court will appoint and supervise an expert to oversee HSD's compliance with federal law in providing food and medical assistance. The Department needs expert assistance with important changes that will help the state provide benefits accurately and efficiently. This includes IT changes, the creation of a manual and effective training for state workers and comprehensible notices to families participating in the programs. We look forward to working with the special master to bring the Department into compliance with the law."