

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DEBRA HATTEN-GONZALES, et al.,

Plaintiffs,

vs.

No. CIV 88-0385 KG/CG
Consolidated with
No. CIV-88-0786 KG/CG

BRENT EARNEST, Secretary of the
New Mexico Human Services Department,

Defendant.

JOINT STATUS REPORT

On April 16, 2019, the parties in this matter held a Meet and Confer pursuant to this Court's Orders. Deputy Secretary Angela Medrano, Special Counsel Edward Chavez, Acting General Counsel John Emery, Assistant General Counsel Constance Tatham, SNAP Expert Donna Clifton, and Immigrant Eligibility Expert Laurie Kraw were in attendance for the State. Sovereign Hager, Daniel Yohalem and Maria Griego attended on behalf of the Plaintiffs. Special Master Lawrence Parker, Compliance Specialist Ramona McKissic, and Paralegal Jacqueline Madsen, were also in attendance. Below is the summary of the matters addressed by the parties:

Immigrant eligibility training: The Department has appointed Laurie Kraw to serve as the State's Immigrant Eligibility Expert. Ms. Kraw will provide her resume to the Special Master and Plaintiffs' counsel. The parties will schedule a time in the near future to meet and discuss issues Plaintiffs' counsel have identified as systemic barriers for immigrant families applying for benefits as well as a plan for moving forward and resolving outstanding issues. Assistant General Counsel, Wanda Martinez, will attend meetings between Plaintiffs' counsel and Ms. Kraw, understanding that Ms. Kraw will serve as the primary Immigrant Eligibility Expert. The Special Master and Compliance Specialist will also be invited to attend all meetings. Plaintiffs will provide Ms. Kraw and Ms. Martinez with technical assistance and training on immigrant eligibility. Plaintiffs' training materials include a presentation developed with national partners who are experts on immigrant eligibility for public benefits.

Case review: The Special Master and Compliance Specialist have completed their audit of the case review completed by the parties. The Special Master stated that he had expected there to be more exceptions, but that the errors "took out" many of the exceptions. He also noted, some of,

or all the errors had not been flagged by the Department's Quality Assurance, Quality Control Bureau, or case reading processes.

The Special Master and Compliance Specialist reviewed 166 cases and issued a decision on 128 cases. Of the cases designated as error cases by Plaintiff's counsel, the Special Master found no error in 21 cases, two of which the parties later agreed were "no error" cases.

The Special Master and Compliance Specialist explained that they designated cases as error cases even if there were multiple correct actions taken in the case but one or more errors occurred. Systemic errors identified by Mr. Parker and Ms. McKissic include:

- Eligibility errors – cases which include, but are not limited to, incorrect benefit periods, incorrect certification periods, cases where the eligibility system did not cascade into the proper program or category of Medicaid eligibility, or an improper income calculation.
- Verification errors – cases where one or more verification requests was incorrect. In some cases, families had their benefits denied or terminated for failure to turn in verification document that was already in their case file. In cases where there were multiple verification errors, the case was counted as one error case – the individual errors were not counted separately.

The Compliance Specialist noted that the policies for applying administrative renewal and reasonable compatibility are not consistently applied throughout the State or even within single field offices. This results in workers "pending" cases for further action which then incorrectly triggers auto denial and auto closure causing eligible families to lose their benefits.

The Special Master and Compliance Specialist also expressed concern over outstanding compliance matters relating to notices. The NOCA does not consistently contain SNAP calculation tables and does not adequately explain when individuals have been transitioned on Medicaid. The HUMAD does not tell clients what is required to satisfy eligibility verification requests, especially when something is turned in but it is not sufficient. For example, the HUMAD asks for unearned income but does not describe what type of unearned income. Additionally, the MAD 608 is not correctly pre-populating with eligibility information available to the Department.

Corrective Action Plan: The Special Master asked the parties to attempt to agree on a Corrective Action Plan. Plaintiffs provided Defendant with a list of issues that they believe should be included in a Corrective Action Plan (CAP). The parties agreed to the following deadlines for the CAP:

- HSD will provide Plaintiffs' counsel with its proposed CAP by close of business on Friday, April 26, 2019;
- Plaintiffs' counsel will provide comments on HSD's proposed CAP by close of business on Friday, May 3, 2019.
- HSD will submit the final version of the CAP to the Special Master by close of business on Wednesday, May 8, 2019.

The CAP will include intermittent steps that will progress the Department towards final deadlines. The Special Master will provide his opinion if the parties cannot agree on the content of the CAP. HSD agreed to provide Plaintiffs' counsel with a link to the draft Quick Guide (described a field operations guide in Doc. 712) prior to submission of its proposed CAP. Special Counsel Justice Edward Chavez provided the link on April 24, 2019.

Litigation conclusion: The Special Master indicated that to reach a reasonable conclusion of the case, 1) a Corrective Action Plan (CAP) will need to be addressed by the Court and must be put in place, 2) any systemic errors that cannot be fixed through the CAP will be addressed by the Court.

The parties agreed to communicate with each other outside of regularly meet and confer conferences to move forward any outstanding matters related to compliance with the Decree and federal law. The parties agreed that, based on the outcome of this file review, the parties must complete another file review pursuant to the Decree. The parties agreed to discuss parameters for the next file review including, 1) limiting the case review to fewer cases (perhaps closer to 120), 2) establishing a much shorter time frame (perhaps one month), 3) reviewing for excessive verification, notices, and eligibility decisions using uniform practices, and 4) possibly limiting the scope of review to only include cases for which benefits were denied or terminated.

Respectfully submitted,

/s/ Maria Griego

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May 2019, I filed the foregoing pleading electronically with the United States District Court, causing the same to be electronically served on opposing counsel.

/s/ Maria Griego