

- 2. This Court has jurisdiction over the claims against all Defendants pursuant to 28 U.S.C. §§ 1331, 1343 and 1367. Venue is proper in the Central District of California pursuant to 28 U.S.C. § 1391(b).
- This case is certified as a class action on behalf of all current and future applicants in Orange County for Food Stamps benefits, both regular and expedited, during the pendency of this Consent Decree. Plaintiffs Joann Blackstar, Monique Galvan, Alina Iban and Celso Ibarra are all approved as class representatives. Robert D. Newman, Richard A. Rothschild and Antionette D. Dozier of the Western Center on Law & Poverty ("WCLP"), Kenneth W. Babcock, Gary B. McGaha and Ezequiel Gutierrez, Jr. of the Public Law Center ("PLC"), Jean Shin of Rothner Segall Greenstone & Leheny ("Rothner"), and Brett J. Williamson, Phillip R. Kaplan and Kristopher M. Dawes of O'Melveny & Myers LLP ("OMM") are all approved as class counsel. Robert D. Newman of WCLP and Gary B. McGaha of PLC are approved as Lead Class Counsel for purposes of monitoring Defendants' compliance with this Consent Decree and filing any motions to enforce the terms of the Consent Decree. In the event that the Court awards fees for work performed by class counsel after entry of this Consent Decree, OMM has agreed to waive its right to collect fees for any work performed by members of OMM after entry of the Consent Decree.

B. Medi-Cal Provisions

Defendants shall provide Lead Class Counsel with the Medi-Cal "Regional Monthly Intake Activity Summary" or such other report as may be necessary to reflect SSA's processing times for Medi-Cal applications each month for the duration of this Consent Decree.

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C. Regular Food Stamps Application Provisions

- 1. <u>Processing Standards</u> SSA shall process Regular Food Stamps applications as follows:
 - a. approve at least 93% of eligible applications within thirty (30) days of the date of application;
 - b. approve or deny at least 90% of all applications within thirty(30) days of the date of application; and
 - c. approve or deny 97% of all applications within sixty (60) days of the date of application.
- 2. <u>Compliance Determinations</u> SSA's compliance with the processing standards as stated in paragraph C.1., above, shall be evaluated monthly based on reports prepared and provided to Lead Class Counsel by SSA, as required in paragraph C.3. below.
- 3. <u>Statistical Reporting</u> For the duration of the Consent Decree, SSA shall provide Lead Class Counsel with the following reports for each month: (1) the Food Stamps Disposition Summary created by SSA specifically for internal manual tracking purposes, (2) the State of California's "Food Stamps Program Monthly Caseload Movement Statistical Report," (a.k.a. "the DFA-296"), and (3) such other report(s) as may be necessary to reflect SSA's regular Food Stamps applications processing times and percentages as governed by the Processing Standards set forth in paragraph C.1. above. Said reports are typically completed no later than the last week of the month for the immediately preceding month and will be provided within seven (7) business days from the time the completed reports become available.

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Expedited Food Stamps Application Provisions D.

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applications as follows:

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Processing Standards - SSA shall process Expedited Food Stamps 1.

- approve at least 90% of eligible Expedited Food Stamps a. applications within 3 days of the date of application (as calculated pursuant to applicable State Regulations or guidelines); and
- approve at least 95% of eligible Expedited Food Stamps applications within 14 days of the date of application.
- Compliance Determination SSA's compliance with the processing 2. standards as stated in paragraph D.1., above, shall be evaluated monthly based on reports prepared and provided by SSA to Lead Class Counsel on a monthly basis as required in paragraphs C.3. above and D.3. below.
- Statistical Reporting For the duration of the Consent Decree, in 3. addition to the reports referenced in paragraphs B and D.3. above, SSA shall provide Lead Class Counsel with (1) the State of California's "Food Stamps Program Expedited Service Quarterly Statistical Report" (a.k.a. "the DFA-296X"), and (2) such other report(s) as may be necessary to reflect SSA's Expedited Food Stamps applications processing times and percentages as governed by the Processing Standards set forth in paragraph D.1. above. Said reports are typically completed no later than 45 days following the end of the quarter and will be provided as the completed reports become available.
 - 4. Circumstances Under Which SSA will be Relieved from Meeting the Processing Standards of Paragraph D.1.
 - State Funding Shortfalls SSA shall be relieved from a. complying with the processing standards set forth in paragraph D.1., above, for the month in question, whenever the funding to SSA from the State of California ("State") for the administration of the Regular Food Stamps program fails to keep pace with "caseload growth."

- i. <u>Determining a State Funding Shortfall</u> In the event SSA receives an allocation letter from the California Department of Social Services ("CDSS") that demonstrates that the State's funding for the administration of the Regular Food Stamps program does not account for caseload growth during the immediately preceding fiscal year, SSA shall immediately notify Lead Class Counsel. For example: Orange County experienced a 10% caseload growth in fiscal year 2008-2009 over the 2007-2008 fiscal year but CDSS only funded the 2008-2009 fiscal year at the same level as the 2007-2008 fiscal year.
- ii. Meet and Confer Requirement In the event there is a funding shortfall as described herein, SSA agrees to meet and confer with Lead Class Counsel to discuss SSA's proposals to address the funding shortfalls and ways to overcome them in order to restore compliance with the processing standards within a reasonable time of receipt of the allocation letter from the CDSS. If the parties cannot reach agreement regarding the appropriate response to the funding shortfall, Lead Class Counsel may challenge the adequacy of SSA's proposal in Court.
- b. <u>Dramatic Increase in Applications</u> In the event there are increases in Regular Food Stamps applications of 10% or more in any given month over the established "baseline" as defined herein, SSA shall be relieved from complying with the processing standards set in paragraph D.1. above for expedited Food Stamp applications, so long as SSA implements corrective measures to address the increase in applications and advises Lead Class Counsel of the corrective measures that are being implemented.

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- i. SSA's Time to Implement Corrective Measures - Such corrective measures shall be implemented within thirty (30) days of the date the data for the particular month becomes available.
- Baseline Defined The baseline for determining whether ii. the provisions of paragraph D.4.b. above are triggered shall be the average of the total number of Regular Food Stamps applications received by SSA, stated as a monthly average, for a six-month period. The six-month period for the baseline for any given month shall be the seventh month preceding through the second month preceding the month that is being evaluated for purposes of determining whether SSA is entitled to relief from compliance. For example, the six-month baseline period to evaluate performance in February 2010 would have been July 2009 through December 2009, inclusive.

Effect of Applicant Caused Delay E.

- For purposes of the statistical reporting required by paragraphs B., C. 1. 3., and D.3., above, SSA shall not count as "untimely" an application that was delayed in processing as the result of the action and/or inaction of the applicant. An "applicant-caused delay" is defined as a delay where the applicant requested the assigned SSA worker to allow the application be held open to allow the applicant to complete the application process or otherwise conclude the application process.
- Nothing in this Consent Decree should be construed as requiring SSA to deny applications for Expedited Food Stamps on or before the third day after the date of application or to deny applications for regular Food Stamp benefits on or before the thirtieth day after the date of application when SSA cannot make a conclusive determination of eligibility and the applicant still expresses an interest

in establishing eligibility for aid.

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F. **Enforcement Mechanisms for Consent Decree**

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In the event that SSA does not meet the required compliance levels in any given month and the performance requirements for that month have not been suspended, relieved or excused on any of the grounds permitted by the provisions above, Defendants shall implement appropriate corrective measures within thirty (30) days of the day that statistical data becomes available for the month in question and Defendants shall advise Lead Class Counsel of these corrective measures.

- 2. In the event that SSA does not thereafter meet the required percentages for a third month following implementation of corrective measures and statistical data becoming available for that third month, Plaintiffs may then file a motion to enforce the compliance levels set forth in this Consent Decree.
- Before filing any motion to enforce the terms of the Consent Decree, 3. counsel for the moving party shall contact counsel for the opposing party to discuss thoroughly, preferably in person, the substance of the contemplated motion and any potential resolution. Any such motion shall not be filed until ten (10) days after the parties have conferred to discuss the motion pursuant to Local Rule 7-3.

G. Effective Date of the Consent Decree and Court's Ongoing Jurisdiction

- 1. The Consent Decree shall remain in effect for a term of three years from the effective date at which time the Consent Decree will automatically expire and no longer be of any force or effect. During that three year period, the Court shall retain jurisdiction over the matter to enforce the provisions of the Consent Decree.
- 2. The Court shall retain jurisdiction over the request by WCLP, PLC. Rothner, and OMM to be awarded their costs of suit and over their motion to recover attorneys' fees and litigation related expenses. The Court notes that in the "Stipulation and Settlement Agreement of Class Action Claims" submitted by the

parties to the Court concurrently with this Consent Decree, Plaintiffs and their counsel have agreed that the total amount of attorneys' fees, litigation related expenses and costs of suit sought by their cost bill and motion will not exceed \$750,000, and that Defendants have agreed that they will not oppose any cost bill, request and motion for fees, expenses, and costs that do not collectively exceed a requested amount of \$750,000. Accordingly, WCLP, PLC, Rothner and OMM shall file their cost bill and motion to recover attorneys' fees and litigation related expenses, in a total amount not to exceed \$750,000, no later than ninety (90) days after entry of this Consent Decree.

Dated: ______, 2010

Dale S. Fischer United States District Judge