

2005 WL 3428213

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United States District Court,
S.D. New York.

Lakisha REYNOLDS, Georgina Bonilla, April Smiley, Lue Garlick, Adriana Calabrese, Jenny Cuevas, and Elston Richards, on their own behalf and on behalf of all others similarly situated,
Plaintiffs,

v.

Rudolph GIULIANI, as Mayor of the City of New York, Jason Turner, as Commissioner of the New York City Human Resources Administration, Brian J. Wing, as Commissioner of the New York State Office of Temporary and Disability Assistance, and Barbara Debuono, as Commissioner of the New York State Department of Health, Defendants.

No. 98 Civ. 8877(WHP). | Dec. 14, 2005.

Attorneys and Law Firms

Henry Freedman, New York, NY, for Plaintiffs.

Yisroel Schulman, New York Legal Assistance Group, New York, NY, for Plaintiffs.

Scott Rosenberg, The Legal Aid Society, Civil Division, New York, NY, for Plaintiffs.

Kenneth Rosenfeld, Northern Manhattan Improvement Corp., New York, NY, for Plaintiffs.

Jonathan L. Pines, Assistant Corporation Counsel, of the City of New York, New York, NY, for the City Defendants.

Caroline M. Brown, Covington & Burling, Washington, D.C., for the City Defendants.

James M. Hershler, William H. Bristow III, Assistant Attorneys General of the State of New York, New York, NY, for the State Defendants.

Opinion

JUDGMENT

PAULEY, J.

*1 This class action, having been tried without a jury before the Honorable William H. Pauley III, United States District Judge, and this Court having issued its Amended Memorandum and Opinion on February 14, 2005,

NOW, THEREFORE, this Court does hereby ORDER, ADJUDGE AND DECREE:

DECLARATORY RELIEF

Pursuant to 28 U.S.C. §§ 2201 and 2202 and Rules 54, 57 and 58 of the Federal Rules of Civil Procedure, this Court makes the following declarations as of April 2, 2001 concerning the City and State Defendants:

1. With respect to the City Defendants, this Court declares that they failed to:

(a) Provide expedited food stamp service to class members eligible for expedited processing of their food stamp application within seven (7) days after the date of the application, in accord with 7 U.S.C. § 2020(e)(9) and 7 C.F.R. § 273.2(i)(3);

(b) Process class members' applications for food stamps separately when the application for cash assistance was denied or withdrawn, in accord with 7 U.S.C. §§ 2014(b) and 2020(i)(2) and 7 C.F.R. § 273.2(b)(3);

(c) Process class members' applications for Medicaid separately when the application for cash assistance was denied or withdrawn, in accord with 42 U.S.C. § 1396a(a)(8) and 42 C.F.R. §§ 435.909 and 435.913;

(d) Provide class members adequate and timely notice confirming voluntary withdrawals for Medicaid in accord with 42 C.F.R. § 435.913 and/or document the withdrawals of food stamp applications in accord with 7 C.F.R. § 273.2(c)(6);

(e) Provide class members with adequate and timely notice of decisions on eligibility for cash assistance (including immediate needs cash grants), food stamps (including expedited food stamps), and Medicaid applications by correctly completing the applicable forms in accord with 7 C.F.R. § 273.10(g)(1); 42 C.F.R. §§ 435.911 and 435.912 and

18 N.Y.C.R.R. §§ 351.8(b) and 358-2.2(a);

(f) Provide class members with accurate information concerning eligibility for cash assistance, food stamps or Medicaid in relation to a withdrawal from the cash assistance, food stamp or Medicaid programs;

(g) Provide expedited food stamp service to class members eligible for expedited processing of their food stamp applications within five (5) days of the date of application in accord with 18 N.Y.C.R.R. § 387.8(a)(2)(i)(a); and

(h) Provide immediate needs grants on the same day of application to eligible class members in accord with N.Y. Soc. Serv. L. § 133 and 18 N.Y.C.R.R. § 351.8(c)(4).

2. With respect to the State Defendants, this Court declares that they failed to adequately supervise the City Defendants' compliance with the obligations set forth above in paragraphs 1(a)-(f) arising under the Food Stamp and Medicaid Acts.

INJUNCTIVE RELIEF

3. With respect to all applications filed at Job Centers or successor Centers, the City Defendants are hereby permanently enjoined to take the following actions:

(a) Provide expedited food stamp service to class members eligible for expedited processing of their food stamp application within seven (7) days after the date of the application, in accord with 7 U.S.C. § 2020(e)(9) and 7 C.F.R. § 273.2(i)(3);

*2 (b) Process class members' applications for food stamps separately when the application for cash assistance was denied or withdrawn, in accord with 7 U.S.C. §§ 2014(b) and 2020(i)(2) and 7 C.F.R. § 273.2(b)(3);

(c) Process class members' applications for Medicaid separately when the application for cash assistance was denied or withdrawn, in accord with 42 U.S.C. § 1396a(a)(8) and 42 C.F.R. §§ 435.909 and 435.913;

(d) Provide class members adequate and timely notice confirming voluntary withdrawals for Medicaid in accord with 42 C.F.R. § 435.913 and/or document the withdrawals of food stamp applications in accord with 7 C.F.R. § 273.2(c)(6);

(e) Provide class members with adequate and timely notice of decisions on eligibility for cash assistance (including immediate needs cash grants), food stamps (including expedited food stamps), and Medicaid applications by correctly completing the applicable forms in accord with 7 C.F.R. § 273.10(g)(1); 42 C.F.R. §§ 435.911 and 435.912 and 18 N.Y.C.R.R. §§ 351.8(b) and 358-2.2(a);

(f) Provide class members with accurate information concerning eligibility for cash assistance, food stamps or Medicaid in relation to a withdrawal from the cash assistance, food stamp or Medicaid programs;

(g) Provide expedited food stamp service to class members eligible for expedited processing of their food stamp applications within five (5) days of the date of application in accord with 18 N.Y.C.R.R. § 387.8(a)(2)(i)(a); and

(h) Provide immediate needs grants on the same day of application to eligible class members in accord with N.Y. Soc. Serv. L. § 133 and 18 N.Y.C.R.R. § 351.8(c)(4).

4. The State Defendant Commissioner of the New York State Office of Temporary and Disability Assistance ("OTDA") is hereby permanently enjoined to supervise the City Defendants' compliance with the aforesaid obligations in paragraphs 3(a)-(f) arising under the Food Stamp Act, and the State Defendant Commissioner of the New York State Department of Health ("DOH") is hereby permanently enjoined to supervise the City Defendants' compliance with the aforesaid obligations in paragraphs 3(a)-(f) arising under the Medicaid Act.

NOTICE OF RIGHTS

5. The City Defendants are to post signs in each Job Center or successor Center and provide notice in the application materials distributed at those Centers that applicants for food stamps will be evaluated for expedited food stamp processing and receive expedited service if qualified, will receive immediate needs grants if eligible, and will have their applications for food stamps and Medicaid determined separately if their application for cash assistance is withdrawn or denied.

INDIVIDUAL RELIEF

6. Without diminishing the right of the plaintiff class to seek enforcement of this Judgment, the City Defendants will provide Plaintiffs' counsel with a mechanism to notify them of written complaints regarding the individual cases in which the City Defendants allegedly violated the terms of this Judgment. The City Defendants will investigate the alleged incident(s), take any appropriate steps required to resolve the issue(s) concerning each individual case (including issuing benefits to eligible applicants), and report the results of such investigation, including what steps, if any, were taken to resolve the issue(s), in writing to Plaintiffs' counsel. Such report shall be provided within five (5) business days of receiving Plaintiffs' counsel's report of the alleged incident(s), provided, however, that the timeframe for response shall be two (2) business days when the alleged incident(s) concern the provision of expedited food stamp service or immediate needs cash grants and the incident is reported within five (5) business days of the date of application. No provision in this Judgment shall infringe upon any individual class member's right to request a fair hearing concerning that individual's cash assistance, food stamps or Medicaid benefits or to seek judicial review of the fair hearing decision.

MONITORING

*3 7. Beginning March 31, 2006, the City Defendants shall provide quarterly reports to Plaintiffs' counsel covering the prior three (3) months regularly prepared by the City Defendants to track their performance in meeting their obligations under paragraph 3 of this Judgment, including, but not limited to, a report documenting, by Center and by month, the percentage and the number of expedited food stamps provided within five (5) days of application.

8. Beginning March 31, 2006, the State Defendants shall provide quarterly reports to Plaintiffs' counsel covering the prior three (3) months regularly prepared by the State Defendants which track their performance in meeting their obligations under paragraph 4 of this Judgment.

9. Semiannually, the City Defendants will a review systematic sample of 200 applications submitted in the months of April and October respectively.

(a) These reviews will be conducted in June and December and will reflect the following:

(i) For each application in which the applicant did not receive expedited food stamps, the City Defendants will

determine whether the applicant was eligible for expedited food stamps.

(ii) For each application in which the applicant did not receive expedited food stamps on the same day of application and in which the applicant did not receive a "no food" immediate needs cash grant, the City Defendants will determine whether the applicant was eligible for a "no food" immediate needs cash grant.

(b) In addition to the determinations set forth in 9(a) above, the City Defendants will provide Plaintiffs' counsel with the following documentation for each application reviewed:

(i) The W-145HH notice (or successor notice), the successor notice), the M-3 notice (or successor notice), and any additional notices concerning separate food stamp and/or Medicaid applications, as well as information, if available, on whether each notice was printed and/or mailed to the applicant.

(ii) The "All Change Actions" printout and, if the printout does not indicate whether and when any separate food stamp and Medicaid applications are accepted or denied, and any denial code, documents, if available, that include this information.

Upon reasonable notice, the City Defendants will make the reviewed files available for inspection by Plaintiffs' counsel.

10. Semiannually, the City Defendants will review a systematic sample of 50 cash assistance applications withdrawn in the months of April and October respectively. These reviews will be conducted in June and December and the City Defendants will provide Plaintiffs' counsel with a copy of the complete case file pertaining to each withdrawn application reviewed.

11. Beginning June 30, 2006, OTDA will conduct semiannual reviews of the City Defendants' compliance with the Food Stamp Act, and DOH will conduct semiannual reviews of the City Defendants' compliance with the Medicaid Act as set forth in paragraph 3 of this Judgment. The State Defendants will provide Plaintiffs' counsel with the results of these reviews in August and February respectively.

COURT'S ENFORCEMENT JURISDICTION

*4 12. In the event that Plaintiffs' counsel believes that

Defendants' have failed to comply with this Judgment, Plaintiffs' counsel shall notify Defendants' counsel in writing of any alleged deficiency and shall meet and confer prior to seeking judicial intervention.

provided by 42 U.S.C. § 1988, and costs and disbursements related to their claims brought under 42 U.S.C. § 1983. The parties are directed to meet and confer regarding reasonable attorneys' fees, costs and disbursements.

SO ORDERED:

ATTORNEYS' FEES

13. Plaintiffs are entitled to reasonable attorneys' fees, as
