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Attorney for Defendants State of Alaska

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JENNIFER SPENCER, individually and)
on behalf of all those similarly situated,)

Plaintiffs,)

v.)

ADAM CRUM, in his official capacity as)
Commissioner of the Alaska Department)
of Health and Social Services, and)
SHAWNDA O'BRIEN, in her official)
capacity as Director of the Alaska)
Division of Public Assistance,)

Defendants.)

Case No. 3:19-cv-00087-SLG

DEFENDANTS' ANSWER

Defendants Adam Crum, in his official capacity as Commissioner of the Alaska
Department of Health and Social Services ("DHSS"), and Shawnda O'Brien, in her
official capacity as the Director of the Alaska Division of Public Assistance ("DPA"), by

and through the Office of the Attorney General, together answer the complaint in this action as follows.

PRELIMINARY STATEMENT

1. This paragraph states a legal conclusion to which no response is required. To the extent a factual response is required, denied.
2. Denied. To the extent that this paragraph states a legal conclusion, no response is required.
3. Admit.
4. Admit that in the 2018 state fiscal year, 19,631 Medicaid applications, which were 46.3% of applications submitted, were not processed within federal timelines. Admit that the federal timelines for processing Medicaid applications were not achieved for 33.6% of applicants in the 2014 state fiscal year; 62.2% of applicants in the 2015 state fiscal year, 57.4% of applicants in the 2016 state fiscal year, and 48.6% of applicants in the 2017 state fiscal year. The remainder of this paragraph is denied or states legal conclusions to which no response is required.
5. Admit that no district office timely processed more than 66% of Medicaid applications received as of the February 4, 2019, report. The remainder of this paragraph is denied or states legal conclusions to which no response is required.
6. Denied. To the extent that this paragraph states a legal conclusion, no response is required.

JURISDICTION

7. This paragraph states a legal conclusion to which no response is required. To the extent a factual response is required, denied. The United States District Court, District of Alaska, has jurisdiction over this case.

8. This paragraph states a legal conclusion to which no response is required. To the extent a factual response is required, denied. Venue is proper in the District of Alaska.

PARTIES

9. To the best of Defendants' knowledge, Admit.

10. Admit that Adam Crum is the Commissioner of the Department of Health and Social Services ("DHSS"). Admit that DHSS administers Alaska's Medicaid Program. To the extent that this paragraph states a legal conclusion, no response is required.

11. Admit that Shawnda O'Brien is the Director of the Division of Public Assistance ("DPA"). Admit that DPA is the Division within DHSS that processes Medicaid applications and makes Medicaid eligibility decisions. To the extent that this paragraph states a legal conclusion, no response is required.

CLASS ALLEGATIONS

12. This paragraph states a legal conclusion to which no response is required.

13. This paragraph states a legal conclusion to which no response is required.

14. This paragraph states a legal conclusion to which no response is required.

15. This paragraph states a legal conclusion to which no response is required.

STATUTORY AND REGULATORY SCHEME

16. This paragraph states a legal conclusion to which no response is required.

17. This paragraph states a legal conclusion to which no response is required.

18. This paragraph states a legal conclusion to which no response is required.

19. This paragraph states a legal conclusion to which no response is required.

20. This paragraph states a legal conclusion to which no response is required.

21. This paragraph states a legal conclusion to which no response is required.

22. This paragraph states a legal conclusion to which no response is required.

23. This paragraph states a legal conclusion to which no response is required.

FACTUAL ALLEGATIONS

A. Facts common to the Class

24. Denied. To the extent that this paragraph states a legal conclusion, no response is required.

25. Denied. To the extent that this paragraph states a legal conclusion, no response is required.

26. Admit.

27. Admit.

28. Admit that the February 4, 2019, report indicates that no district office is processing all Medicaid applications within State and Federal timeframes. Admit that the February 4, 2019, report indicates that no office is processing more than 66% of initial

Medicaid applications within state timeframes. Admit that the February 4, 2019, report indicates that some offices are not processing more than half of applications within state timeframes.

29. The Alaska State Ombudsman's report speaks for itself. The remainder of this paragraph is denied or states a legal conclusion to which no response is required.

30. The Alaska State Ombudsman's report speaks for itself.

31. The Alaska State Ombudsman's report speaks for itself.

B. Facts of Individual Named Plaintiff

32. Admit that Ms. Spencer applied for Medicaid through the Health Insurance Marketplace on healthcare.gov on December 21, 2018. Defendants do not have sufficient knowledge to admit or deny the remainder of this paragraph.

33. Defendants do not have sufficient knowledge to admit or deny the allegations in this paragraph.

34. Denied.

STATEMENT OF CLAIMS

COUNT I – VIOLATION OF 24 U.S.C. § 1983

35. Defendants incorporate every paragraph above as if fully restated herein.

36. This paragraph states a legal conclusion to which no response is required.

37. This paragraph states a legal conclusion to which no response is required.

38. This paragraph states a legal conclusion to which no response is required.

To the extent a factual response is required, denied.

COUNT II – VIOLATION OF 7 AAC 100.018

39. Defendants incorporate every paragraph above as if fully restated herein.

40. This paragraph states a legal conclusion to which no response is required.

To the extent a factual response is required, denied.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff lacks standing to bring these claims.
3. Plaintiff's claims are not ripe.
4. Plaintiff has not suffered any injury.
5. Plaintiff's claims are moot.
6. Defendants are entitled to sovereign and/or statutory immunity.
7. Plaintiff's requested relief would violate the doctrine of separation of powers.
8. The federal government has the sole authority to enforce the violations asserted by Plaintiff.
9. Plaintiff has failed to exhaust administrative remedies.
10. Defendants are not persons within the meaning of 42 USC § 1983.
11. There is no controversy such that the court should issue a declaratory judgment.
12. Plaintiff is estopped from bringing her claim.

13. The State reserves the right to assert additional defenses and other matters as the case proceeds.

PRAYER FOR RELIEF

Defendants pray for the following relief:

1. That the complaint be dismissed in its entirety with prejudice.
2. That Plaintiffs' prayer for relief be denied.
3. That Defendants be awarded their costs and fees in the action.
4. That the Court award Defendants such other relief as may be just and equitable under the circumstances.

DATED: April 5, 2019.

KEVIN G. CLARKSON
ATTORNEY GENERAL

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Crum and Director O'Brien

Certificate of Service

I certify that on April 5, 2019, the foregoing *Defendants' Answer* was served electronically on the following:

James J Davis, Jr. and Goriune Dudukgian
Northern Justice Project, LLC
310 K Street, Suite 200
Anchorage, AK 99501

/s/Rebecca N. Garcia
Rebecca N. Garcia, Law Office Assistant