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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11  
12

13 **CALIFORNIA ALLIANCE OF CHILD  
14 AND FAMILY SERVICES,**

15 Plaintiff,

16 v.

17 **JOHN WAGNER, Director of the California  
18 Department of Social Services, in his official  
capacity; GREGORY ROSE, Deputy  
19 Director of the Children and Family  
Services Division of the California  
20 Department of Social Services, in his official  
capacity,**

21 Defendants.  
22

CV 09-4398 MHP

**DECLARATION OF DEBRA WILLIAMS  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO MOTION FOR A  
TEMPORARY RESTRAINING ORDER  
AND ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION**

Date: 10/9/2009  
Time: 2:30 p.m.  
Courtroom: 15, 18th Floor, San Francisco  
Judge The Hon. Marilyn Hall Patel

Action Filed: September 18, 2009

23  
24 I, Debra Williams, declare as follows:

25 1. I am employed by the California Department of Social Services (CDSS). My current  
26 position is Bureau Chief, Foster Care Rates Bureau, in the Foster Care Audits and Rates Branch. I  
27 have held this position since January 2008. Prior to that, I held a variety of posts within the  
28 Foster Care area of CDSS, including positions within the Foster Care Audits and Rates Branch

1 and the Rates Policy Unit.

2 2. The Foster Care Rates Bureau of the California Department of Social Services is  
3 responsible for overseeing statewide policies related to applicable Adoption Assistance and  
4 Child Welfare Act of 1980 (P.L. 96-272) and Title IV-E eligibility provisions, revisions, and  
5 maintenance of California's State Plan under Title IV-E, and providing technical assistance and  
6 oversight of eligibility and funding aspects of the foster care program administration in all 58  
7 counties of California.

8 3. The United States Department of Health and Human Services' (HHS) Administration  
9 for Children and Families provides oversight of state child welfare services and foster care  
10 programs. HHS develops and implements national policy by issuing regulations, overseeing  
11 states' performance, and conducting compliance audits. It also allocates federal funds for child  
12 welfare and related programs to state, county, city, and tribal governments, and to public and  
13 private local agencies.

14 4. CDSS is California's state agency responsible for child welfare services. CDSS  
15 supervises California's 58 counties' administration of child welfare services and foster care  
16 programs through statutes, regulations, policies, and compliance reviews. CDSS also allocates  
17 federal and state funds to all California's counties.

18 5. California's foster care group home rates are set by the our Legislature, as set forth in  
19 Welfare and Institutions Code section 11462, and changes to those rates are made by the  
20 Legislature by amendments to that statute.

21 6. The foster care group home payments rates system set by the Legislature is based on  
22 a Rate Classification Level (RCL) point system that measures the number of "paid awake" hours  
23 worked each month by a group home program's child care and social worker staff and their first-  
24 line supervisors. The point system also counts the number of hours of mental health treatment  
25 services received by the children in the program, although these services are funded by another  
26 state agency, the Department of Mental Health, and do not have to be paid for by the provider.  
27 These hours are then weighted to reflect the experience, formal education, and ongoing training  
28 of the child care staff and the qualifications of the social work and mental health professionals.

1 These weighted hours are then divided by 90 percent of the program's licensed capacity (that is,  
2 the number of foster children within a given group home) to compute the program's RCL points.  
3 The higher the points, the higher the RCL reimbursement. Consistent with their program  
4 statements, group homes can access additional funding sources such as the Early & Periodic  
5 Screening & Diagnostic Treatment (EPSDT) Program, which is a Medi-cal program), and  
6 education funds. Group homes may also apply for grants, and conduct fundraising.

7 7. I have reviewed the submissions of plaintiff in support of its motion for a temporary  
8 restraining order. It is inaccurate to say, as claimed in those submissions, that there has been a 10  
9 percent RCL rate decrease since the first "Alliance" case, *California Alliance of Child and Family*  
10 *Services v. Allenby*, No. C 06-04095 MHP (*Alliance I*).

11 8. The rate schedule found at WIC 11462 (f)(1) is the schedule of rates paid at the time  
12 of the filing of the Complaint in *Alliance I*, June 30, 2006. These were the levels relied on by the  
13 court in reaching its decision (dated March 12, 2008), which found that CDSS' RCL rate  
14 schedule, which was noted by the court to be 80% of actual costs, was in substantial compliance  
15 with the federal Child Welfare Act.

16 9. Subsequent to the filing of that *Alliance I* complaint, SB 84, Chapter 177, Statutes of  
17 2007, provided a 5% increase in the wages and benefits for group home providers. See WIC  
18 11462 (g)(4) which made that increase effective January 1, 2008. Then AB 4, Chapter 4, Statutes  
19 of 2009, added section WIC 11462(g)(5), which decreased the amount in (g)(4) by 10%, (which  
20 reflected the 5% increase provided by SB 84) effective October 1, 2009. As a result, group home  
21 providers will not experience a 10% decrease. Some may experience more or less than a 5% net  
22 decrease depending on the provider's individual circumstances. However, the lesser decrease  
23 will not be experienced until, November 1, 2009 since they are paid in arrears.

24 10. At the same time, AB 4 continued the adjusted rate schedule for 2009-2010. The  
25 adjusted rate schedule is based on the same determination of points described in paragraph 6,  
26 however, the adjusted rate schedule allows providers to more easily meet their RCL points by  
27 allowing them flexibility to make a proportionate adjustment to their staff expenses. For  
28 example, a group home can choose to reduce the number of hours spent by staff, or reduce the

1 level of education and/or experience of child care, social work, and mental health workers it  
2 employs, thereby offsetting the statutory rate reduction. By such choices, a program can be  
3 funded at a higher RCL rate level than is reflected by the degree of services it provides, thereby,  
4 as a practical matter, diminishing or even negating altogether the effect of the budget cutbacks. In  
5 other words, the decrease described in paragraph 9 is offset by the extension of this rate  
6 adjustment schedule. This effectively allows the group home providers to adjust services and  
7 reduce expenses while retaining the same level of payment. The net result of these combined  
8 changes, as seen in the attached chart (Exhibit B) currently allows providers who take advantage  
9 of this adjusted rate schedule to eliminate the fiscal impact of the net decrease altogether. That  
10 current fiscal benefit is in the range of 5.76% to 6%.

11 11. In addition to the existing rate relief, which when utilized, will ameliorate the  
12 decrease described in paragraph 9, Senate Bill 597 (SB 597), will allow an even greater  
13 adjustment to points necessary to meet a given paid RCL. This bill is enrolled but not yet signed  
14 into law. Unless it is vetoed by the Governor prior to Oct. 11, 2009, which is not expected, it will  
15 become law. There is no reason to believe that it will not become law since it was a cooperative  
16 effort of the Alliance (Plaintiffs) and the CDSS. At that time the potential fiscal benefit of the  
17 adjusted rate schedule (identified in paragraph 10) and SB 597 combined will be an increase in  
18 the range of 17% to 18%. (See Exhibit B).

19 12. As to plaintiff's claims of immediate harm from the 10 percent rate reduction going  
20 into effect on October 1st, it must be noted that foster care payments are made in arrears, that is,  
21 no later than the 15th day of the month following that in which the services were provided. Thus,  
22 the reductions effective October 1, 2009, will not be seen by the providers until November 1st at  
23 the soonest, and in some cases, not until November 15th. The outcome of SB 597 will be known  
24 well in advance of this date.

25 13. As of today's date, there are approximately 225 foster family agencies and  
26 approximately 453 group home programs in California. If the figures stated by the Alliance in its  
27 papers in this case are accurate – that it has 87 members – then there are approximately 366 group  
28 homes that are not Alliance members. And, although CDSS does cannot count the number of

1 beds or capacities for foster family agencies, the approximately 453 group homes in California  
2 have a current bed capacity of approximately 9,187. If the figure stated by the Alliance in its  
3 papers in this case regarding the number of beds its group home members have is accurate – that  
4 is, 3,720 beds – then the number of beds of non-Alliance member group homes is approximately  
5 5,467.

6 14. This declaration is based on personal knowledge. If called to testify in this action, I  
7 could and would competently testify to the matters set forth herein.

8 I declare under penalty of perjury that the foregoing is true and correct, and that this  
9 declaration was executed, electronically, at my request, on October 5, 2009, while I was in  
10 Sacramento, California.

11  
12 /s/ Debra Williams

13 Debra Williams

14  
15 GENERAL ORDER 45 ATTESTATION

16 I, George Prince, am the ECF user whose ID and password are being used to file this  
17 request for an order. In compliance with General Order 45, X.B., I hereby attest that declarant  
18 Debra Williams has concurred in the filing of this document with her electronic signature.

19 Dated: October 5, 2009

20 /s/ George Prince

21 George Prince

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