

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO 1437 Bannock Street, Rm. 256 Denver, CO 80202	COURT USE ONLY
ANNA DAVIS, et al., Plaintiffs, v. JOAN HENNEBERRY, Executive Director of the Colorado Department of Health Care Policy and Financing, in her official capacity only, et al. and KAREN BEYE, Executive Director of the Colorado Department of Human Services, in her official capacity only, et al. Defendants.	
	Case No. 04 CV7059 Crtrm 1
AMENDED STIPULATION AND ORDER OF SETTLEMENT CONCERNING THE DEPARTMENT OF HUMAN SERVICES	

The parties, by their respective counsel, jointly submit the following Amended Stipulation and Order of Settlement Concerning the Department of Human Services (“DHS Amended Order”) in this lawsuit, which is intended to resolve all claims between the plaintiffs and Defendant Beye and the Department of Human Services (“defendant”) except (1) claims regarding Defendant’s obligation to timely process food stamp redeterminations as set forth in

paragraph 44 of this DHS Amended Order; and (2) claims for attorneys' fees and costs which are set forth in paragraph 45 of this DHS Amended Order.

1. This DHS Amended Order applies only to Defendant Karen Beye, in her official capacity and the Colorado Department of Human Services ("DHS").

2. The terms of the Stipulation and Order of Settlement entered into between the parties on December 19, 2007 and so ordered by the Court on January 3, 2008 ("Original Order of Settlement") remain in full force and effect and are incorporated by reference herein to the extent only that they pertain to one or more of the signatories to this DHS Amended Order.

DEFINITIONS

3. "Order of Settlement" or "DHS Amended Order" means this Amended Stipulation and Order of Settlement Concerning the Department of Human Services.

4. "Application" means an initial application for eligibility for Food Stamps and/or Colorado Works.

5. "Applicant" means any person or household that applies for Food Stamps or Colorado Works including initial applications and redeterminations.

6. "Colorado Works" means the Colorado Works Program as established in C.R.S. §26-2-701 et seq.

7. "Defendant" means the Colorado Department of Human Services (CDHS) and the Executive Director of that Department in her official capacity as director.

8. "Food Stamps" means the program referred to in the Supplemental Nutrition and Assistance Act, 7 U.S.C. § 2020, and implementing regulations at 7 C.F.R. §§ 273.2 and 273.14

and implementing state statute C.R.S. §§26-1-201(l)(d); 26-2-103(7). "Food Stamps" includes Expedited Food Stamp processing.

9. "Redetermination" means a recertification or means the program specific process by which current benefits program participants renew eligibility for that benefits program.

10. "Systems Interface" means the process by which one or more computer systems share information necessary to ensure that correct eligibility decisions are made and benefit amounts are calculated correctly.

11. "Days" shall mean calendar days unless otherwise so stated.

COMPLIANCE WITH APPLICABLE LAW

12. Defendant shall provide ongoing food stamps to eligible applicants no later than 30 calendar days after date of application as required by 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2 (g)(l).

13. Defendant shall insure that each Food Stamp household receives a notice of expiration of its certification period prior to the start of the last month of its certification period advising the household that it must submit a new application in order to renew its eligibility for a new certification period, and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such redetermination no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification as required by 7 U.S.C. § 2020(e) (4) and implementing regulations, 7 C.F.R. § 273.14.

14. Defendant shall affirmatively identify households eligible for expedited food stamps at the time the household requests assistance and shall provide expedited foodstamp benefits to eligible households within seven calendar days of the date the application is filed in accordance with 7 U.S.C. § 2020(e)(9) and 7 C.F.R. § 273.2(1)(2).

15. Defendant shall provide food stamp benefits retroactive to the month of application to those households that have completed the application process and been determined eligible as required by 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a)(2).

16. Defendant shall comply with 7 C.F.R. § 273.2(e)(3) which provides that Defendant must schedule an interview for all applicant households who are not interviewed on the day they submit their applications. To the extent practicable, Defendant must schedule the interview to accommodate the needs of groups with special circumstances, including working households. Defendant must schedule all interviews as promptly as possible to ensure eligible households receive an opportunity to participate within 30 days after the application is filed.

17. Defendant shall comply with 7 C.F.R. § 273.2(g)(3) which provides that “[i]n cases where the State agency was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have been made, the State agency may also deny the application on the 30th day if the State agency provided assistance to the household in obtaining verification as specified in paragraph (f)(5) of this section, but the household failed to provide the requested verification.”

18. Defendant shall monitor the local counties administration of the food stamp program in compliance with 7 U.S.C. § 2020, *et seq.* and implementing regulations.

19. Defendant shall comply with with 7 C.F.R. 273.2(h)(1)(i)(D), which provides that “For households that have failed to appear for an interview, the State agency must notify the household that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview. If the household contacts the State agency within the 30 day processing period, the State agency must schedule a second interview. If the household fails to schedule a second interview, or the subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the 30th day; otherwise, the delay shall be the fault of the household. If the household has failed to appear for the first interview, fails to schedule a second interview, and/or the subsequent interview is postponed at the household's request until after the 30th day following the date the application was filed, the delay shall be the fault of the household. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.”

20. Defendant shall process all Colorado Works applications and determine eligibility within 45 days of date of application, unless the applicant has requested and the county has approved the extension of time9 CCR 2503-1, CDHS Staff Manual, vol. 3, Income Maintenance § 3.603.6.

21. Defendant shall be deemed to have satisfied her obligations under this DHS Amended Order for the timely processing of initial food stamp applications so long as she achieves and maintains the following percentages of timely processing in each of the following

categories: (1) food stamps applications (approvals and denials), (2) application approvals for food stamps entitled to expedited processing:

- a. For the six month period ending in March 31, 2011, 80%;
- b. For the six month period ending in September 30, 2011, 85%;
- c. For the six month period ending in March 31, 2011, 90%;
- d. For the six month period ending in September 30, 2012, 95%; and
- e. For the six month period ending in March 31, 2013, 95%;

22. Defendant shall be deemed to have satisfied her obligations under this DHS Amended Order for timely processing of Colorado Works applications so long as she achieves and maintains the following percentages of timely processing for Colorado Works applications:

- a. For the six month period ending in March 31, 2011, 80%;
- b. For the six month period ending in September 30, 2011, 85%;
- c. For the six month period ending in March 31, 2011, 90%;
- d. For the six month period ending in September 30, 2012, 95%; and
- e. For the six month period ending in March 31, 2013, 95%;

23. For purposes of paragraph 21 - 22 of this DHS Amended Order, the percentage of timely processing shall be determined for food stamp applications (approvals and denials), applications for food stamps entitled to expedited processing, and applications for Colorado Works by reference to the last month of each six month period. For purposes of paragraphs 21 and 22, and for purposes of determining the percentage of timely processed food stamp redeterminations, the timely processing percentage shall be determined, for initial food stamp applications (approvals and denials), applications for food stamps entitled to expedited

processing, food stamp redeterminations, and applications for Colorado Works, by dividing the total number of applications, or redeterminations in the case of food stamp redeterminations, processed for each benefit category into the total number that were processed within the federal and/or state timely processing requirements for each benefit category during the relevant month.

The following state reports shall be used to determine compliance:

- a. Initial Food Stamp Application Determinations (approvals and denials) - For initial food stamp application determinations (approvals and denials), the percent of timely determinations shall be determined by using the data on "Food Stamps" line on the report titled "CDHS Application Processing Timeframes - Statewide Summary." The number of determinations in the "Within Timeframes" column shall be divided by the sum of the determinations in the "Within Timeframes" and "Exceeds Timeframes" columns. For example, for the month ending April 30, 2010, the calculation is $6,699/8,898 [6,699 + 2,199] = 75.28\%$;
- b. Expedited Food Stamp Approvals - For expedited food stamp approvals, the percent of timely determinations shall be computed using data on the "Expedited Food Stamps" line on the report titled "CDHS Application Processing Timeframes - Statewide Summary. The number of approvals in the "within Timeframes" line shall be divided by the sum of the approvals in the "Within Timeframes" and "Exceeds Timeframes" columns. For example, for the month ending April 30, 2010, the calculation is $6,195/8,345 [6195 + 2150] = 74.23\%$;
- c. Colorado Works Application Determinations - For Colorado Works application determinations (approvals and denials), the percent of timely determinations shall

be determined by using the data on "Colorado Works" line on the report titled "CDHS Application Processing Timeframes - Statewide Summary." The number of determinations in the "Within Timeframes" column shall be divided by the sum of the determinations in the "Within Timeframes" and "Exceeds Timeframes" columns. For example, for the month ending April 30, 2010, the calculation is $1,718 / 1897 [1,718 + 179] = 90.56\%$; and

- d. Food Stamp Redeterminations (approvals and denials) - For food stamp redeterminations (approvals and denials), the percent of timely redeterminations shall be determined by using the data on "Food Stamps" line on the report titled "Timely Recertifications Redeterminations for CDHS Programs - Statewide Summary." The number of determinations in the "Timely Count" column shall be divided by the sum of the determinations in the "Timely Count" and "Untimely Count" columns. For example, for the month ending April 30, 2010, the calculation is $8,838 / 19,436 [8,838 + 10,598] = 45.47\%$;

A copy of the above-titled reports for the month ending April 30, 2010 is attached as Exhibit A.

24. The description of the data in the reports described in paragraphs 23 and other reports required by paragraphs 21-23 of the DHS Amended Order is attached as Exhibit B. Defendant shall not modify these reports without the prior consent of the plaintiffs, which shall not be unreasonably withheld.

MONITORING DEFENDANT'S OBLIGATIONS:

25. Within 10 business days of the expiration of each month for the remaining term of this DHS Amended Order, Defendant shall provide Plaintiffs' counsel with the following information:

- a. A report identifying, for each case reviewed under the Food Stamp Quality Control System, whether the application for Food Stamps in that case was timely processed;
- b. Any other report compiled under the Food Stamp Quality Control System requested by counsel for plaintiffs,

26. Within 10 business days of the expiration of each month thereafter for the remaining term of this DHS Amended Order, for Colorado Works, Food Stamps (including Expedited Food Stamps) and Adult Financial Programs, Defendant shall Provide Plaintiffs' counsel with the following information:

- a. A report noting the number of applications received in the month, by Program Area, in each county, Medical Assistance Site, and State Processing Site, if applicable;
- b. A separate report clearly indicating by Program Area the number of all application determinations made in the month, subdivided by County, Medical Assistance Site and State Processing Site. This report shall include specific information regarding whether the application was approved or denied;

- c. A separate report indicating by Program Area the number of all redeterminations made in the month, subdivided by County, Medical Assistance Site and State Processing Site, whether the redetermination was approved or denied.

27. Within 10 business days of the expiration of each month thereafter for the remaining term of this DHS Amended Order, for Colorado Works, Food Stamps (including Expedited Food Stamps) and Adult Financial Programs, Defendant shall Provide Plaintiffs' counsel with the following information:

- a. A report by Program Area, for all application determinations made in the month, subdivided by County, Medical Assistance Site and State Processing Site clearly indicating whether each application was timely processed;
- b. A separate report by Program Area for all redeterminations made in the month, subdivided by County, Medical Assistance Site and State Processing Site, clearly indicating whether each redetermination was timely processed;
- c. For each County, Medical Assistance Site and State Processing Site, a report indicating the number of application determinations made in the month by Program Area that were untimely:
 - i. With respect to Colorado Works, Food Stamps and Adult Financial Programs, whether the determination was:
 - a) Untimely by less than 30 days;

- b) Untimely by 30 days or more days but less than 45 days;
 - c) Untimely by 45 days or more days but less than 60 days;
 - d) Untimely by 60 days or more days, but less than 90 days; or
 - e) Untimely by more than 90 days;
- ii. With respect to Expedited Food Stamps, whether the delay for the provision of Food Stamps to eligible households is:
- a) Untimely by 1 day;
 - b) Untimely by 2-3 days;
 - c) Untimely by 4-6 or more days; or
 - d) Untimely by 7 or more days.
- d. For each County, Medical Assistance Site and State Processors Site, a report indicating the number of redeterminations that were untimely with respect to Colorado Works, Food Stamps and Adult Financial Programs, whether the redetermination was;
- i. Untimely by less than 30 days;
 - ii. Untimely by 30 days or more days but less than 45 days;
 - iii. Untimely by 45 days or more days but less than 60 days;
 - iv. Untimely by 60 days or more days, but less than 90 days; or
 - v. Untimely by more than 90 days;

28. The parties agree that circumstances beyond the Department's control may delay the production of a monitoring report specified in paragraphs 25-27 of this DHS Amended Order. For purposes of this DHS Amended Order, "Circumstances Beyond the Department's Control"

means events or occurrences that the Department has no power to change or affect despite the Department's best efforts and that frustrate, delay, or impede the Department's ability to meet the time-frames agreed to for the production of the monitoring. The term does not include increases in the number of applications, fluctuations in staffing levels, or acts of the state legislature in failing to appropriate funds that affect the Department's ability to meet the time-frames. For the purposes of this DHS Amended Order, the occurrence of a circumstance beyond the Department's control shall not be deemed to relieve the Department from taking all steps necessary to bring itself into compliance with the DHS Amended Order as expeditiously as possible.

29. In the event that the Department asserts that circumstances beyond the Department's control have delayed the production of a monitoring report, it shall as promptly as possible *prior* to the delivery date, provide notice to plaintiffs' counsel of (a) the expected delivery date and (b) the reason(s) for the delay. Nothing herein shall diminish plaintiffs' right to challenge:

- a. whether there are circumstances beyond the control of the Department for the delay;
- b. whether the monitoring report is being provided as expeditiously as possible notwithstanding the delay;
- c. whether plaintiffs' counsel have been provided sufficient information concerning the cause for the delay; and
- d. whether adequate steps have been taken to minimize the recurrence of a delay in the provision of the report.

30. Defendant shall provide, at the same time they are provided to the United States Departments of Agriculture (USDA), copies of all reports submitted to USDA that pertain to the timely processing of applications. Defendant will provide Plaintiffs with a report regarding food stamp application processing, including data regarding expedited processing of food stamp applications, from data collected pursuant to the federally mandated Food Stamp Management Evaluation (ME) Review (7 C.F.R. 275subpart 13). This report will be provided to Plaintiffs within 30 days of the submission of the ME report to the USDA.

31. In the event that plaintiffs shall deem it necessary, an external auditor selected and funded by the plaintiffs, and approved by Defendant (such approval by Defendant not to be unreasonably withheld) shall, no more than once during the life of this DHS Amended Order, be entitled to obtain production of a statistically valid sample of determinations of applications and redeterminations. The sample shall consist of a full copy of the portion of the case files and all CBMS or other data base screens related to the report time period for each application and redetermination that has been selected for each sample for purposes of verifying the accuracy of reports at Section 5 of this DHS Amended Order.

32. All copies of case files and CBMS and other data base screen prints will be produced within 60 days of request. For each sample for which plaintiffs seek production, the auditor shall be entitled to no more than the number of cases necessary to provide a statistically valid sample at the 95% confidence level with a 3% margin of error, with an upper limit of 400 cases.

GENERAL PROVISIONS

33. **Customer Service Assistance.** During the term of this DHS Amended Order, Defendant shall continue to maintain and staff a toll-free customer service telephone line that recipients and applicants for Food Stamps and Colorado Works can call to report problems. Issues regarding problems with eligibility and benefits due to CBMS will be transferred to qualified personnel and addressed as expeditiously as possible. The toll-free numbers shall be posted on Defendant's website and Defendant shall keep a log of calls to the 800 number and shall track the number of calls received and the number resolved related to eligibility and benefits due to CBMS. Defendant shall provide the above data, without any personally identifying information, to Plaintiffs' counsel quarterly. Defendant shall require each county and Medicaid site to post information in English and Spanish about the availability of the 800 number in a public area. Defendant shall provide Plaintiffs' counsel with a copy of Defendant's letter to the Counties.

34. **Improper Collection of Overpayments.** If Defendant discovers that any County has collected from any recipient an overpayment caused by the failure of CBMS to operate properly prior to June 1, 2006, Defendant shall instruct that County to refund the amount collected to the recipient.

35. **Telephone Access to County Staff.** If Defendant discovers that a county is not providing reasonable telephonic access to all persons seeking to contact a county worker concerning an application, existing case, or other matter related to the operation of the Benefit Programs, Defendant shall take steps within that Department's authority to require the County to provide such access.

36. **Operation of Interfaces.** Defendant represents that at the time of this DHS Amended Order all interfaces between CBMS and other computer systems or data files necessary for the timely and accurate delivery of benefits are working as designed in most cases. If Plaintiffs become aware of any individual case where an interface did not work as designed, Defendant will promptly investigate and respond to any such problem after receipt of information from the Plaintiffs. Defendant will report to Plaintiffs' counsel within 30 days of learning of any systemic problem with an interface between CBMS and other computer systems or data files necessary for the timely and accurate delivery of benefits under any state or federal benefit program covered by this Consent Order and shall report the steps that have been or will be taken to address the systemic problem identified. Defendant shall act to fix all such problems identified within a reasonable period of time not to exceed 60 days from the date of the report to plaintiffs' counsel or shall report to plaintiffs why the problem cannot be fixed within 60 days and shall set forth a corrective action plan including time frames.

37. **Technical Computer Issues.** Plaintiffs may submit in writing to Defendant any specific problem they believe to be systemic regarding the technical operation of the CBMS computer system of which they are aware. Plaintiffs will provide the name and other identifying information of the applicant or recipient who has experienced the problem Plaintiffs have identified. Defendant will research and evaluate the individual case and any systemic problem raised by the individual case. Within 30 days of notification by plaintiffs, Defendant will inform Plaintiffs' counsel whether the issues raised warrant any systemic correction to the computer systems, and if so, the plans and timetable Defendant has to remedy the problems identified. Defendant shall fix all such problems identified within a reasonable period of time not to exceed

60 days from the date of the report to plaintiffs' counsel or shall report to plaintiffs why the problem cannot be fixed within 60 days and shall set forth a corrective action plan including time frames.

38. **Restoration of Benefits.** Plaintiffs are concerned that persons whose food Stamps and/or Colorado Works assistance benefits (public assistance benefits) were wrongly terminated, reduced or denied as a result of the operation of CBMS receive the full benefit to which they were otherwise entitled. Defendant states that whenever it may discover that an eligible person was owed, but did not receive the full amount of Food Stamps or public assistance benefits, Defendant will pay the owed benefits retroactively. Defendant discovers that someone may be owed public assistance benefits in a variety of ways including phone calls by the recipients or someone on their behalf to Defendant, reports from the Counties, the administrative appeals process and identifying CBMS system errors and quality assurance reviews. Defendant represents that it does not have a method for every public assistance program to statistically summarize the number of recipients whose benefits have been paid retroactively due to a CBMS system caused error. Defendant shall instruct their customer service lines and the Counties regarding these undertakings, and direct them to process requests for retroactive payments expeditiously.

39. **County Management Review.** The Plaintiffs are concerned that the information entered into CBMS is an accurate representation of the information contained in the applicant's paper or separate electronic case record for the application located at the County. As a part of their statutory oversight over the Counties, Defendant shall conduct quality assurance management reviews of Counties that shall include review of this information and Defendant

will provide to Plaintiffs counsel copies of the management reviews on this subject within 30 days of completion.

JURISDICTION OF THE COURT

40. Pursuant to Rule 53 of the Colorado Rules of Civil Procedure, the parties agree that former Judge Joseph Bellipanni of the Judicial Arbiter Group shall be appointed as a "Master" in this matter for purposes of:

- a. Monitoring the Defendant's performance with respect to the requirements of paragraphs 12-23 of this DHS Amended Order; and
- b. Determining any appropriate corrective action reasonably required of Defendant.

Judge Bellipanni's appointment shall take effect upon the Court's approval of this DHS Amended Order which shall be deemed an order of reference pursuant to Rule 53 C.R.C.P. Judge Bellipanni shall have all of the powers and authority provided for in Rule 53 C.R.C.P. and as provided for herein. Defendant shall file, on a six-month basis beginning with the six month period ending March 31, 2011, within 15 days of the end of the six month period, a report that shall include copies of all monitoring provided to the plaintiffs and shall set forth the reasons and proposed corrective action, if any, for any noncompliance with the requirements of this DHS Amended Order, and Judge Bellipanni shall meet with the parties to review said report within 15 days of its issuance. In the event the monitoring reveals and/or Plaintiffs assert that Defendant has failed to comply with any of the terms (not limited to timely compliance with application processing requirements) of this DHS Amended Order as set forth in paragraphs 12-23, Judge Bellipanni shall hold such hearings as he deems necessary and appropriate and prepare a report

which shall be filed with the Court which includes findings of fact, conclusions of law, and the corrective actions required of Defendant. The parties hereby stipulate that Judge Bellipanni's findings of fact in any such report shall be final. Judge Bellipanni shall be compensated at the then current hourly rate charged for his services by the Judicial Arbiter Group, which compensation shall be paid by Defendant. In the event that Judge Bellipanni is no longer able to serve, this paragraph 41 and so much of paragraph 42 of this DHS Amended Order as requires Plaintiffs to resort to this paragraph shall be deemed to be void until such time as the parties agree on a new Master. Until such Master is agreed upon, the parties shall have their remedies under law.

41. At any time during the life of this DHS Amended Order, in the event that Plaintiffs believe that Defendant has failed to meet the requirements of paragraphs 12 - 23 of this DHS Amended Order Plaintiffs' counsel shall be entitled to seek appropriate relief from the Court. However, prior to seeking such relief, Plaintiffs' counsel shall invoke the procedure set forth in Paragraph 40 of this DHS Amended Order, unless Judge Bellipanni has already submitted a report. If Judge Bellipanni has already submitted a report, Plaintiffs may proceed directly to Court. The parties disagree as to the percentage of applications that must be processed timely for the Defendants' performance pursuant to paragraphs 21-22 of this DHS Amended Order to be considered to be in compliance with applicable law. Nothing in this DHS Amended Order shall constitute a waiver of Plaintiffs' or Defendant's rights to seek to enforce their views of the applicable legal standard of compliance for the timely processing of applications in any proceeding before the Court in connection with any motion for contempt, enforcement, or to extend the jurisdiction of the Court as provided for herein.

42. At any time during the life of this DHS Amended Order, in the event that Plaintiffs believe that Defendant has failed to adhere any provision other than paragraphs 12-23 of this DHS Amended Order, Plaintiffs' counsel shall be entitled to seek appropriate relief from the Court without resort to the process set forth in paragraph 41 of this DHS Amended Order. Plaintiffs' counsel shall notify Defendants' counsel in writing of the nature and specifics of the alleged failure at least thirty (30) days before any motion is made for enforcement of this DHS Amended Order of Settlement or for contempt and shall meet and discuss with Defendant the reasons and possible solutions.

43. This Court shall retain jurisdiction over this action for all purposes, including but not limited to enforcement and modification of this DHS Amended Order and granting such other and further relief that, in the interests of justice, are necessary to ensure defendant's compliance with law. In the event that Defendant timely processes 95% of all applications for each benefit category for twelve ("12") consecutive months, Defendant shall be deemed to have complied with this DHS Amended Order and to have discharged its duty to plaintiffs and the jurisdiction of the Court shall be terminated.

44. This DHS Amended Order does not resolve the issue of Defendant's obligation to timely process food stamp redeterminations. The parties agree that they are unable to agree to the percentage of redeterminations that must be processed within the time frames set forth in paragraphs 21-22 of this DHS Amended Order to be considered to be in compliance with applicable law. If the parties agree to the percentage of redeterminations that must be processed within the time frames set forth in paragraphs 21-22 of this DHS Amended Order within 60 days of the date this DHS Amended Order is approved by the Court, the parties shall submit a

proposed amendment to this DHS Amended Order. If the parties do not agree to the percentage of redeterminations that must be processed within the time frames set forth in paragraphs 21-22 of this DHS Amended Order within 60 days of the date this DHS Amended Order is approved by the Court, the parties shall submit the question to non-binding mediation before Mr. Bellipanni. If the parties agree to the percentage of redeterminations that must be processed within the time frames set forth in paragraphs 21-22 of this DHS Amended Order within 60 days of the referral of the question to mediation, the parties shall submit a proposed amendment to this DHS Amended Order. If the parties do not agree to the percentage of redeterminations that must be processed within the time frames set forth in paragraphs 21-22 of this DHS Amended Order within 60 days of the referral of the question to mediation, Plaintiffs may proceed directly to Court to seek relief.

45. This DHS Amended Order does not resolve plaintiffs' entitlement to attorney's fees and costs to date. Defendant agrees that Plaintiffs are entitled to attorney's fees and costs in a case of this kind for claims on which they substantially prevail, but Defendant may challenge certain of Plaintiffs' fees and costs in this matter. Accordingly, on or before 60 days after the execution of this Order, Plaintiffs shall file a motion for attorney's fees and costs with the Court in this matter. Thereafter, the parties shall engage in mediation. If a mediated resolution is not reached within forty-five days thereafter, the parties shall proceed to have the Plaintiffs' motion resolved by the Court.

46. Defendant shall not assert the lack of the certification of a class or that the named plaintiffs' claims have become moot or that the plaintiffs lack standing in opposition to any motion brought pursuant to this DHS Amended Order.

47. No provision in this DHS Amended Order shall infringe upon the right of any individual identified in this action to seek relief against Defendant in the appropriate forum for any alleged violation of applicable law and implementing regulations.

48. Nothing contained in this DHS Amended Order shall be deemed to be a finding or an admission that the Defendant has in any manner violated Plaintiffs' rights as contained in the law and rules and regulations of the United States or the State of Colorado.

49. This DHS Amended Order is final and binding upon the parties, their successors, and assigns.

<p>COUNSEL FOR PLAINTIFFS</p> <p><i>/s/ Michael J. Cook</i> <i>[Signature]</i></p>	<p>COLORADO DEPARTMENT OF HUMAN SERVICES</p> <p>By: <i>[Signature]</i> <i>/s/ Karen L. Beye</i></p>
<p>MICHAEL J. COOK, # 8242 SHERMAN & HOWARD, L.L.C. 633 Seventeenth Street, Suite 3000 Denver, CO 80202</p>	<p>KAREN L. BEYE, Executive Director</p>
<p>EDWIN S. KAHN, # 2666 D. ELIZABETH ARENALES, # 23083 ADELA FLORES-BRENNAN, # 36725 COLORADO CENTER ON LAW AND POLICY</p>	<p>APPROVED AS TO FORM by: JOHN W. SUTHERS, ATTORNEY GENERAL, COUNSEL FOR DEFENDANT by <i>/s/ Alicia R. Calderón</i> <i>[Signature]</i></p>
<p>789 Sherman Street, Suite 300 Denver, Co 80203</p>	<p>ALICIA R. CALDERÓN First Assistant Attorney General Human Services Unit State Services Section</p>
<p>MARC COHAN MARY R. MANNIX PETRA T. TASHEFF NATIONAL CENTER FOR LAW AND ECONOMIC JUSTICE 275 Seventh Avenue, Suite 1205 New York, New York 10001</p>	<p>303-866-5536 303-866-5671 (FAX) Email: alicia.calderon@state.co.us</p> <p>Original Signatures on File at the Offices of the Attorney General</p>



CDHS Application Processing Timeframes - Statewide Summary

Monthly Period Ending April 30, 2010



Program Group Description	Within Timeframes	Exceeds Timeframes
Adult Financial Assistance	1,564	294
Colorado Works	1,718	179
Expedited Food Stamps	6,195	2,150
Food Stamps	6,699	2,199
Statewide Totals	16,176	4,822

EXHIBIT A



Timely Recertifications Redeterminations for CDHS Programs- Statewide Summary

Monthly Period Ending April 30, 2010



Program Group Description	Timely Count	Untimely Count
Adult Financial Assistance	824	681
Colorado Works	327	295
Food Stamps	8,838	10,598
Statewide Total:	9,989	11,574

Changes to the CDHS Court Reports
Effective August 2009

No changes to the **Report of Applications for CDHS programs reports** (by county and MA Site only)

Summary Of New CDHS Application Determinations:

Only count if the case/program status changed from pending to approved or denied in the month (do not count if moved from pending to any other status). Ignore AF if the program is burial.

Delete County Diversion from consideration in this report

Ignore "special situation" application types

The following categories will be used:

Approved for Adult Financial

Denied for Adult Financial

Approved for Colorado Works

Denied for Colorado Works

Approved for Food Stamps

Denied for Food Stamps

Show a Footnote of how many of the **approved** FS were for Expedited.

Use the Following Logic for how to count FS and when to note as Expedited:

If FS and EX were both approved in month, count once as approved and note as expedited

If FS was denied and EX was approved in months, count once as approved and note as expedited

If EX was denied and no action taken on FS, do not count

If EX was denied and FS was approved, count as FS approved and do not note as Expedited

If EX was approved and no action taken on FS, count as approved FS and note as expedited

If FS was acted on in month and no EX action in month, then need to look if there was an EX approved within 46 days of the FS action. If there is an EX approved within 46 days of the FS action, do not count (that application already counted when the EX action happened). If no EX approved within 46 days of the FS action, then count as FS (either approved or denied) and do not note as expedited.

Report should look like:

	Approved	Denied	Total
Adult Financial	xxxx	xxxx	xxxx
Colorado Works	xxxx	xxxx	xxxx
Food Stamps	xxxx*	xxxx	xxxx

* xx were expedited



For all actions tallied in this report, write a row to a new database table that will track the case number, HPLG, Program, indicator for expedited (of FS), application date, application override date, status change date, status. This new table will be used for the other court reports for CDHS applications. This table should also be added to the adhoc package available for writing COGNOS reports using Query studio.

Timely Applications for CDHS Programs

Change report title to "CDHS Application Processing Timeframes"

Only use those case/programs listed in the table created in the Summary of New CDHS Applications.

Change column headings to "Within timeframes" and "Exceeds timeframes"

If noted as expedited, use seven days as the processing timeframe.

Untimely Applications for CDHS Programs

Change report title to "CDHS Applications that Exceed Timeframes"

Only use those case/programs listed in the table created in the Summary of New CDHS Applications and were counted as "exceeds timeframes" in the CDHS Application Processing Timeframes report. Need to include regardless if approved or denied. Need to break out into agency caused and client caused. If the application override date is populated and the status change date is on or before the application override date, count as client caused. Otherwise, count as agency caused.

The sum of the case/programs on this report should total the Exceeds timeframe column on CDHS Application Processing Timeframes report.

Summary of CDHS Application Redeterminations

No change to logic, but save the listing of all case programs counted on this report in a table that is used for the timely and untimely redetermination reports. Make this table available through adhoc package for reporting using Cognos Query Studio. Fields to include are case, program, status, status change date, RRR due date, Packet returned date

Timely Recertifications Redeterminations for CDHS Programs

Change the criteria for what is timely/untimely

Starting with the redeterminations from the Summary of CDHS Application

Redeterminations table, determine if it was processed timely or untimely using the following:

For Food Stamps, if the packet is returned after the 15th of the month of the due date, then the due date becomes 30 days after the packet returned date for purposes of determining if the RRR was processed timely. That is, if received on or before the 15th of the month of the due date, then use RRR due date stored in database, if past that use 30 days after the packet returned date for determining if timely.

For Colorado Works and Adult Financial, if the status change date is prior to the RRR due date it is timely, else it is not timely.

Untimely Recertifications Redeterminations for CDHS Programs
Only change in logic is to start with those RRRs counted as untimely in the Timely
Recertifications Redeterminations for CDHS Programs report

Summary of Reports Provided by CBMS for CDHS Application Processing

Each month the CBMS Reports team provides a set of reports that are sent to the plaintiffs for the purpose of reporting on the timeliness of the processing of applications for CDHS programs. Below is a description of the criteria used to produce these reports. These reports include one report of applications received in the processing month, a set of reports that focus on new applications that are processed in the reporting month, and another set of reports that focus on redeterminations/recertifications that are processed in the reporting month.

Report of Applications for CDHS Programs

This report will contain a summary count of applications that had an application date that occurred in the report month for CDHS programs. For example, any application in the system with an application date from January 1-31st will be counted in the report for January 2010. This does not mean that these applications were processed in the month and therefore will not balance with any of the other reports.

- Only applications with an application date that occurred in the report month that have an application type of Initial/New, Recertification, Redetermination or Special Situation are candidates for this report.
- Only applications that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Colorado Works and Adult Financial.

New Applications Processed—this set of reports are tied to new or intake applications only

CDHS Applications Processing Timeframes

This report will contain summary counts of CDHS case/program determinations that were processed in the report month and a count by program of whether they were processed within the timeframe or exceeds the timeframe.

- Only new applications that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Expedited Food Stamps, Colorado Works, and Adult Financial (minus the Burial program). That is to say any eligibility results found for the report month must be for "Intake" mode.
- Timeliness is determined by calculating the elapsed time between the application date and the date the status changed from pending to another status in the report month.
- The parameters for determining timeliness for each program group are as follows:
 - Expedited Food Stamps ≤ 7 Days
 - Food Stamps ≤ 30 Days
 - Colorado Works ≤ 45 Days
 - County Diversion ≤ 45 Days
 - Adult Financial ≤ 60 Days

Summary of New CDHS Application Determinations

This report contains summary counts of CDHS case/program eligibility results for new applications where the case/program had a program status change from Pending to Approved or Denied status sometime in the report month.

- Determinations that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Expedited Food Stamps, Colorado Works, and Adult Financial.
- A Footnote on the report will indicate how many of the approved FS were for Expedited, in the new layout.
- The case/program status must have changed from Pending to Approved or Denied status in the report month. Only the first change from Pending to another status is considered.

- The latest eligibility results that were authorized in and for the reporting month (based on AG_AUTH, CNFRM_DT) for a new application ("Intake" mode) are used for each case and program to determine if the was approved or denied. If no "Intake" mode eligibility results are found, the case/program is skipped.
- The counts of distinct cases will be broken down according to the following groupings
 - Approved for Colorado Works
 - Denied for Colorado Works
 - Approved for Expedited Food Stamps
 - Approved Food Stamps
 - Denied for Food Stamps
 - Approved for Adult Financial
 - Denied for Adult Financial (Ignore if type is Burial)
- The logic for counting the approved and denied cases will be as follows:
 - If FS and EX were both approved in a month, count once as approved and note as Expedited.
 - If FS was denied and EX was approved in months, count once as approved and note as Expedited.
 - If EX was denied and no action taken on FS, do not count.
 - If EX was denied and FS was approved, count as FS approved and do not note as Expedited.
 - If EX was approved and no action taken on FS, count once as approved and note as Expedited.
 - If FS was acted on in month and no EX action in that month, then check if there was an EX approved within 46 days of the FS action. If yes, then do not count, otherwise count it as FS (either approved or denied) and do not note as Expedited.

CDHS Applications that Exceed Timeframes

This report should tie to the column labeled "exceeds timeframe" on the CDHS Applications Processing Timeframes report. It contain a breakdown of the CDHS applications that exceeded timeframes and breaks the number down by whether it was agency caused or client caused and stratifies them by how much they exceeded the timeframes.

- Only new applications that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Expedited Food Stamps, Colorado Works, and Adult Financial (minus the Burial program). That is to say any eligibility results found for the report month must be for "Intake" mode.
- The report will break out on 'Agency Caused' and 'Client Caused'.
- If the application override date is populated and the Status Change date is on or before the application override date, count as 'Client Caused', otherwise as 'Agency Caused'.
- Timeliness is determined by calculating the elapsed time between the application date and the date the status changed from pending to another status in the report month.
- The latest eligibility results that were authorized in and for the reporting month (based on AG_AUTH, CNFRM_DT) for a new application ("Intake" mode) are used for each case and program to determine if the was approved or denied. If no "Intake" mode eligibility results are found, the case/program is skipped.
- The parameters for determining timeliness for each program group are as follows:
 - Expedited Food Stamps <= 7 Days
 - Food Stamps <= 30 Days
 - Colorado Works <= 45 Days

- County Diversion ≤ 45 Days
- Adult Financial ≤ 60 Days
- For all programs other than Expedited Food Stamps, the count is of approved applications where the determination exceeds the timeliness parameters by a given number of days. The categories for untimely application counts are as follows (for all programs other than Expedited Food Stamps):
 - Untimely by less than 30 days
 - Untimely by greater than or equal to 30 days, but less than 45 days
 - Untimely by greater than or equal to 45 days, but less than 60 days
 - Untimely by greater than or equal to 60 days, but less than 90 days
 - Untimely by 90 days or greater
- For Expedited Food Stamps, the count is of approved for Expedited Food Stamps where the determination was made after 7 days, and was agency caused. The categories for untimely are stratified by how many days in excess of 7 days the determination was made. The categories are as follows:
 - Untimely by 1 day
 - Untimely by 2-3 days
 - Untimely by 4-6 days
 - Untimely by 7 or more days

Application Redeterminations—this set of reports is focused on the RRRs that were processed in the reporting month for CDHS programs.

Summary of CDHS Application Redeterminations: This report will contain summary counts of CDHS case/program eligibility results for redeterminations where the case/program had a redetermination status change to either C (completed) or D (Discontinued) sometime in the report month.

- Only cases that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Colorado Works, and Adult Financial.
- The case/program must have had a redetermination status change to either C (Completed) or D (Discontinued) sometime in the report month.
- The latest eligibility results that were authorized in and for the reporting month (based on AG_AUTH.CNFRM_DT) ("Redetermination" mode) are used for each case and program. If no "Redetermination" mode eligibility results are found, the case/program is skipped.
- The counts of distinct cases will be broken down according to the following groupings
 - Approved for Adult Financial
 - Approved for Colorado Works
 - Approved Food Stamps
 - Denied for Adult Financial
 - Denied for Colorado Works
 - Denied for Food Stamps

Timely Recertification Redeterminations for CDHS Programs

This report contains a summary count of CDHS program redeterminations that were considered to be timely; a count of those outside the parameters set for "timely processed redeterminations" will also be given.

- Only recertification/redeterminations that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Colorado Works, and Adult Financial. The case/programs considered for this report must have eligibility results for recertification/redeterminations. That is to say the latest eligibility results that were authorized in

and for the reporting month (based on AG_AUTH.CNFRM_DT) for a recertification/redetermination ("RE" mode) must exist for each case and program.

- Timeliness is determined by comparing the recertification/redetermination status change date that occurred in the prior month where the status was changed to C (Completed) or D (Discontinued) with the RRR due date. A recertification/redetermination is considered timely if the status change date is on or before the RRR due date.
- Determination of whether a Benefit was processed timely or untimely will be done on the basis of following criteria:
 - For Food Stamps, if the packet is returned after the 15th of the month of the due date, then the due date becomes 30 days after the packet returned date. That is, if the packet is received on or before the 15th of the month of the due date, then use RRR due date stored in database, otherwise if it is received past 15th of the month, then use 30 days after the packet returned date for classifying as TIMELY.
 - For Colorado works and Adult Financial, if the status change date is prior to the RRR due date, it is Timely, else Untimely.

Untimely Recertification Redeterminations for CDHS Programs

This report will contain a breakdown of the redeterminations that were considered. All are considered to be agency caused.

- Only recertification/redeterminations that are tied to one of the following CDHS programs are candidates for this report: Food Stamps, Colorado Works, and Adult Financial. The case/programs considered for this report must have eligibility results for recertification/redeterminations. That is to say the latest eligibility results that were authorized in and for the reporting month (based on AG_AUTH.CNFRM_DT) for a recertification/redetermination ("RE" mode) must exist for each case and program.
- Determination of whether a Benefit was processed timely or untimely will be done on the basis of following criteria:
 - For Food Stamps, if the packet is returned after the 15th of the month of the due date, then the due date becomes 30 days after the packet returned date. That is, if the packet is received on or before the 15th of the month of the due date, then use RRR due date stored in database, otherwise if it is received past 15th of the month, then use 30 days after the packet returned date for classifying as TIMELY.
 - For Colorado works and Adult Financial, if the status change date is prior to the RRR due date, it is Timely, else Untimely.

The following rules apply to the agency caused untimely report.

- All untimely recertification/redeterminations are considered Agency caused.
- The categories for untimely redetermination counts are as follows:
 - Untimely by less than 30 days
 - Untimely by greater than or equal to 30 days, but less than 45 days
 - Untimely by greater than or equal to 45 days, but less than 60 days
 - Untimely by greater than or equal to 60 days, but less than 90 days
 - Untimely by 90 days or greater

Court Reports Defect - Changes Made Effective for the April 2010 Reports

The changes to CDHS Court Reports that were implemented with Change Request 2274 (Project 970) do not meet the needs for what is required by the court to send to the plaintiffs. The issue is that the numbers on the CDHS Application Processing Timeframes report (within timeframe plus exceeds timeframe) does not match the total of the approved plus denied on the Summary of New CDHS Application Determinations report. The requirements for how to count Expedited food stamps on the Summary of New CDHS Application Determinations should be followed through for both the CDHS Application Processing Timeframes report and the CDHS Applications that Exceed Timeframes report.

Currently, the applications in the column for exceeds timeframe on the CDHS Application Processing Timeframes report does match the total on the CDHS Applications that Exceed Timeframes report. This is correct and should continue to balance, but the number to balance to must be driven off the total on the CDHS Application Processing Timeframes report. The requirement was to build a table and drive all reports off the same table, so that we would not get different counts on these reports.

1) Application Processing Timeframes report:

a) Program Group Description: Expedited Food Stamps

- The total of the two columns "Within Timeframes" and "Exceeds Timeframes" columns on the Application Processing Timeframes report must equal the asterisked total of cases that were expedited on the New CDHS Application Determinations report; and
- For example, for the report period ending December 31, 2009, there are 9,434 cases identified as expedited on the New CDHS Application Determinations report. Therefore, the total of the 2 columns "Within Timeframes" and "Exceeds Timeframes" for Expedited Food Stamps on the CDHS Application Processing Timeframes report must equal 9,434. (Currently the total of those 2 columns is $8,597 + 3,845 = 12,442$.)

b) Program Group Description: Food Stamps

- The total of the two columns "Within Timeframes" and "Exceeds Timeframes" columns must equal the following number:
Food Stamp Total (from the New CDHS Applications Determinations report) – the asterisked total of expedited applications (also from the CDHS Applications Determinations report).
- For example, for the report period ending December 31, 2009:
18,997 Food Stamp Total (from the CDHS Application Determinations report) – 9434 (asterisked number expedited cases from the New CDHS Application Determinations report) = 9,563. Therefore, the total of the 2 columns "Within Timeframes" and "Exceeds Timeframes" on the CDHS Application Processing Timeframes report must equal 9,563.

- 2) **Applications that Exceed Timeframes report: (This report is ok, but this is the formula being used.)**
- a) **Program Group Description: Expedited Food Stamps**
- The total of all the Agency and Client Caused Expedited Food Stamps "Timeframe Categories" columns must equal the Expedited Food Stamps total from the "Exceeds Timeframes" column of the CDHS Application Processing Timeframes report.
 - For example, for the report period ending December 31, 2009, the Agency and Client Caused Expedited Food Stamps "Exceeds Timeframe by 1 Day, 2-3 Days, 2-6 Days and By 7 Days or Greater" on the Applications that Exceed Timeframes report must equal 3,845 -- assuming this would be a correct number). (Currently, the total of all of the Agency and Client Caused Expedited cases that exceed timeframes on the CDHS Applications that Exceed Timeframes report equals $568 + 555 + 581 + 2,139 + 2 = 3,845$ so this is ok.)
- b) **Program Group Description: Food Stamps**
- The total of all the Agency and Client Caused Food Stamps "Timeframe Categories" columns for Food Stamps must equal the following: Food Stamp Exceeds Timeframes column from the CDHS Application Processing Timeframes report.
 - For example, for the report period ending December 31, 2009: The total of all of the Agency and Client Caused Food Assistance "Exceeds Timeframe by 1 Day, 2-3 Days, 2-6 Days and By 7 Days or Greater" columns on the Applications that Exceed Timeframes report must equal 3,251 (assuming this number is correct from the CDHS Application Processing Timeframes Food Stamps Exceeds Timeframes column). (Currently, the total number of Agency and Client Caused Food Stamps cases Exceeding timeframes per the columns on the CDHS Applications that Exceed Timeframes report period ending December 31, 2009 is $3,066 + 94 + 23 + 13 + 15 + 26 + 14 = 3,251$ so this is ok.)