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

13
 14 **V.L., et al.,**

15 Plaintiffs,

16 v.

17 **JOHN A. WAGNER, et al.,**

18 Defendants.
 19

CV 09-4668 CW

**DEFENDANTS' CERTIFICATION OF
 COMPLIANCE WITH PRELIMINARY
 INJUNCTION**

1 Pursuant to the court's Order Granting Plaintiffs' Motion for a Preliminary Injunction
2 (Preliminary Injunction) (Docket No. 198), defendants hereby certify to the court that they have
3 taken the following steps to comply with and implement the Preliminary Injunction:

4 1. Defendants have required the counties to re-enter manually the information about
5 individual recipients whose IHSS services were scheduled to be terminated or reduced because
6 their FI Scores were below 2.0 or their functional ranks for a particular domestic or related
7 service were below 4 (Impacted Recipients). Defendants issued an All County Letter on October
8 22, 2009 (ACL 09-61) instructing counties to manually re-enter this information. A true and
9 correct copy of ACL 09-61 is attached hereto as Exhibit A.

10 2. Defendants have identified 117,786 Impacted Recipients. As of 12:00 noon on
11 October 28, 2009, the counties had updated 67,738 of the Impacted Recipients' files on the Case
12 Management, Information and Payrolling System (CMIPS), leaving 50,048 files still to be
13 updated. Defendants have asked the counties to take all steps necessary to ensure that all 117,786
14 Impacted Recipients' files will be updated before November 1, 2009, and the counties appear to
15 be on pace to do so. Defendants have been in frequent contact with the counties to monitor their
16 progress and also are able to run reports on CMIPS monitoring the counties' progress.
17 Defendants will file a supplemental certification of compliance after all Impacted Recipients'
18 files have been updated.

19 3. Defendants have determined that having the counties enter this information is the
20 only option available to make all of the necessary changes before November 1, 2009 (or as soon
21 thereafter as possible in the event that the counties cannot complete the changes before that date),
22 and thereby ensure that there will not be any disruption in IHSS services or payments to providers
23 while the Preliminary Injunction is implemented. Having the counties enter this information is
24 also less expensive than having the State enter it because the State does not have staff trained to
25 perform this function, while the counties have staff who are trained to perform this function, are
26 responsible for doing so, and routinely do so. Although defendants dispute the court's authority
27 to order defendants to reimburse the counties for their expenses incurred in entering this
28

1 information and hereby preserve defendants' objections thereto, defendants will comply with the
2 Preliminary Injunction's requirement that they reimburse the counties for these expenses.

3 4. Defendants did not issue any directions or notices to any IHSS recipients or providers
4 regarding the termination or reduction of IHSS benefits on the basis of an FI Score under 2 or
5 functional ranks under 4. Defendants had prepared Notices of Action to send to all Impacted
6 Recipients on October 15, 2009, but pursuant to the court's Temporary Restraining Order issued
7 on October 14, 2009 (Docket No. 128), those Notices of Action were never sent.

8 5. Defendants are mailing notices to all Impacted Recipients, in language agreed upon
9 by the parties and the court (Docket No. 201), notifying them that the previously planned
10 terminations and reductions in IHSS services will not go into effect. Defendants began mailing
11 these notices on October 27, 2009, and will complete the mailing no later than October 30, 2009.
12 A true and correct copy of the notice is attached hereto as Exhibit B.

13 6. Prior to the close of business on Monday, October 26, 2009, defendants posted a copy
14 of the Preliminary Injunction with an explanation of its effect on IHSS services conspicuously on
15 the California Department of Social Services' website, which can be accessed
16 at <http://www.dss.cahwnet.gov>.

17 Dated: October 29, 2009

Respectfully submitted,

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/s/ Gregory D. Brown

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