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20 UNITED STATES DISTRICT COURT
21 DISTRICT OF ARIZONA

22 Aita Darjee on her own behalf and on
23 behalf of her minor child N. D.; and Alma
24 Sanchez Haro on behalf of themselves and
25 all others similarly situated,

26 Plaintiffs,

27 v.

28 Thomas Betlach, Director of the Arizona
Health Care Cost Containment System, in
his official capacity,

Defendant.

No.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

PRELIMINARY STATEMENT

1. This case is brought on behalf of low-income Arizona immigrant residents who qualify for medical services through Arizona’s Medicaid program, the Arizona Health Care Cost Containment System (“AHCCCS”). Plaintiffs seek declaratory and

1 injunctive relief to enjoin Defendant from continuing to violate the Medicaid provisions
2 of the Social Security Act, which requires that refugees and other qualified immigrants
3 are entitled to receive full-scope Medicaid, and from sending eligibility notices that
4 violate the Medicaid Act and due process.

5 2. Under federal and state law, certain qualified immigrants are eligible for
6 full-scope Medicaid while other immigrants are eligible for Federal Emergency Services
7 (“FES”) or emergency-only AHCCCS. For at least the last 18 months, AHCCCS and its
8 agent the Arizona Department of Economic Security (“DES”) have improperly
9 transferred immigrants entitled to full-scope AHCCCS to emergency-only AHCCCS in
10 violation of the federal Medicaid Act. Throughout this Complaint, references to
11 AHCCCS will be used to encompass both the actions or omissions of AHCCCS staff and
12 the staff of its agent DES.

13 3. As a result of the improper transfers, eligible AHCCCS participants with
14 significant medical conditions, including persons with diabetes, mental health conditions,
15 asthma and high blood pressure, have been left without needed medical care. As a result
16 of the improper transfers, Medicaid-eligible persons cannot fully participate in the
17 AHCCCS Medicaid program and their health is being adversely affected.

18 4. In addition, the notices AHCCCS sends out informing the persons that they
19 are only eligible for emergency services violate the Medicaid Act and due process.

20 **JURISDICTION AND VENUE**

21 5. This action arises under the Social Security Act and 42 U.S.C. § 1983. The
22 Court has jurisdiction pursuant to the following statutes:

- 23 a. 28 U.S.C. § 1331, which gives district courts original jurisdiction
24 over all civil actions arising under the Constitution, laws, or treaties
25 of the United States; and
26 b. 28 U.S.C. §§ 1343(a)(3) and (4), which gives district courts original
27 jurisdiction over suits to redress the deprivation under state law of
28

1 any rights, privileges, or immunities guaranteed by the Constitution
2 or by acts of Congress.

3 6. Plaintiffs' action for declaratory, injunctive relief, and other appropriate
4 relief is authorized by 28 U.S.C. §§ 1651, 2201, and 2202.

5 7. Venue is proper under 28 U.S.C § 1391(b) and 1391(e).

6 **PARTIES**

7 8. Plaintiff Aita Darjee is a 30-year-old woman living in Tucson, Arizona.
8 Prior to July 2016, she, her husband Dambar and their minor child N. D. received full-
9 scope AHCCCS based on their immigration status as refugees from Nepal. In July 2016,
10 Ms. Darjee found out she, her husband and son were transferred to emergency-only
11 AHCCCS. This is the second time in the last year, the family was improperly transferred
12 to emergency only AHCCCS despite no changes to their immigration status. Because of
13 the urgency of Dambar Darjee's health conditions and his need for medications, legal aid
14 advocacy efforts were taken to restore his benefits to full-scope AHCCCS. The
15 restoration of his benefits and those of his wife and son are imminent if not complete.

16 9. Plaintiff Alma Sanchez Haro is a 48-year-old woman living in Tucson,
17 Arizona, who prior to April 2016, received full-scope AHCCCS based on her
18 immigration status as a battered immigrant who entered the U.S. before 1996. In April
19 2016, AHCCCS informed Ms. Sanchez Haro that she was transferred to emergency only
20 AHCCCS despite no change to her immigration status.

21 10. Defendant Thomas Betlach is the Director of the Arizona Health Care Cost
22 Containment System and, as such, has the responsibility to administer the Medicaid
23 program in Arizona consistent with the Social Security Act, including the Medicaid Act.
24 He is sued in his official capacity.

25 **CLASS ALLEGATIONS**

26 11. Plaintiffs bring this suit both individually and on behalf of a statewide class
27 of persons similarly situated pursuant to Fed.R.Civ.P. 23(a) and (b)(2). The class is
28 composed of all immigrant residents of Arizona eligible for full-scope AHCCCS benefits

1 who, on or after January 1, 2015, have been or will be required to recertify their
2 eligibility for AHCCCS and whose benefits have been or will be improperly reduced
3 from full scope AHCCCS to emergency only AHCCCS.

4 12. The prerequisite of Fed.R.Civ.P. 23(a) are met in that:

- 5 a. The class is so numerous that joining all members is impracticable.
6 The exact size of the class is unknown but includes thousands of
7 persons residing in Arizona. The class members are geographically
8 dispersed, have limited financial resources, and are unlikely to
9 institute individual actions;
- 10 b. There are issues of fact and law as to the adequacy of the
11 Defendant's policies and laws that are common to all members of
12 the class;
- 13 c. The claims of the named Plaintiffs are typical of the claims of the
14 class they represent; and
- 15 d. Plaintiffs and their counsel will fairly and adequately protect the
16 interests of the class.

17 13. The requisites of Fed.R.Civ.P. 23(b) are met in that the Defendant has acted
18 or refused to act on grounds generally applicable to all members of the class, making
19 final declaratory and injunctive relief appropriate with respect to the class as a whole.

20 **STATUTORY AND REGULATORY FRAMEWORK**

21 14. Title XIX of the Social Security Act, codified at 42 U.S.C. §§ 1396-1396w-
22 5, establishes the Medicaid Act, a cooperative federal-state medical assistance program.
23 The purpose of Medicaid is to enable each State, as far as practicable, "to furnish . . .
24 medical assistance on behalf of families with dependent children and of aged, blind, or
25 disabled individuals, whose income and resources are insufficient to meet the costs of
26 necessary medical services." 42 U.S.C. § 1396-1.

27 15. States do not have to participate in the Medicaid program. The federal
28 Medicaid Act lists the requirements for states that do choose to participate at 42 U.S.C.

1 § 1396a and following provisions. If a state does participate, it must comply with all
2 provisions of the Medicaid Act and implementing regulations, except insofar as
3 individual requirements for states may be waived by the Secretary of the U.S.
4 Department of Health and Human Services (“DHHS”) pursuant to the limited authority
5 granted to him by Congress.

6 16. To participate in Medicaid, the state must have and maintain a
7 comprehensive plan for medical assistance that has been approved by DHHS. The
8 federal government, in turn, pays the state the statutorily established federal share of “the
9 total expended ... as medical assistance under the State plan. ...” 42 U.S.C. § 1396b(a)(1).

10 17. The Medicaid Act requires AHCCCS to furnish medical assistance with
11 reasonable promptness to eligible persons. 42 U.S.C. § 1396a(a)(8).

12 18. The Medicaid regulation implementing the statute requires AHCCCS to
13 “continue to furnish Medicaid regularly to all eligible individuals until they are found to
14 be ineligible.” 42 C.F.R. § 435.930(b). This provision implies that assistance may not be
15 terminated until a person is *properly* found ineligible.

16 19. The state also must provide for an opportunity for persons whose claim for
17 medical assistance is denied. 42 U.S.C. § 1396a(a)(3).

18 20. The state also must provide methods of administration necessary for the
19 proper and effective operation of the state plan. 42 U.S.C. § 1396a(a)(4).

20 21. Arizona participates in Medicaid through the program known as the
21 Arizona Health Care Cost Containment System (“AHCCCS”). A.R.S. § 36-2901 through
22 § 36-2972.

23 22. AHCCCS must retain and cannot delegate its ultimate authority to exercise
24 administrative discretion or supervision of Arizona’s Medicaid program. 42 C.F.R.
25 § 431.10(e)(1)(i). AHCCCS also must exercise appropriate oversight over eligibility
26 determinations. 42 C.F.R. § 431.10(c)(3)(ii).

27 23. The AHCCCS administration contracts with the Arizona Department of
28 Economic Security (“DES”) to process most applications and recertifications for

1 Medicaid eligibility. DES is the agent of AHCCCS and AHCCCS is responsible for
2 DES' actions.

3 **Refugee and Immigrant Eligibility for Full AHCCCS**

4 24. For immigrants who entered the country after August 22, 1996, some
5 qualified immigrants cannot receive public benefits unless they have been in their
6 qualified immigrant status for 5 years. 8 U.S.C. § 1613(a). These persons are referred to
7 as "qualified aliens" as defined in 8 U.S.C. § 1641(b) and (c).

8 25. Under federal law, certain immigrants are exempt from the 5-year
9 requirement. They are entitled to full public benefits without meeting the 5-year
10 requirement. 8 U.S.C. § 1613(b). Those include immigrants who are admitted as a
11 refugee, are granted asylum, are a Cuban or Haitian immigrant, or are an immigrant
12 whose deportation is withheld. Pursuant to A.R.S. § 36-2903.03(B)(1), these qualified
13 aliens under 8 U.S.C. § 1613(b) are entitled to full-scope AHCCCS benefits.

14 26. Pursuant to 8 U.S.C. § 1641(c), victims of domestic battering or extreme
15 cruelty are "qualified aliens" that are not required to meet the 5-year status requirement.

16 27. A qualified immigrant who entered the U.S. before August 22, 1996 is not
17 required to meet the 5-year status requirement. 8 U.S.C. § 1613(a).

18 28. Full-scope AHCCCS provides medically necessary care. Arizona
19 Administrative Code ("A.A.C.") R9-22-202.

20 29. Emergency-only AHCCCS is restricted to covering care for conditions that
21 place the person's health in serious jeopardy or cause serious impairment of bodily
22 function or serious dysfunction of a bodily organ or part. A.A.C. R9-22-217(A).
23 Covered services are only those meeting these criteria and are determined on a case-by-
24 case basis. A.A.C. R9-22-217(C).

25 30. The AHCCCS policy manual lists the non-financial eligibility requirements
26 for non-citizens. [https://healtharizonaplus.gov/PolicyManual/eligibilitypolicymanual/
27 index.html#page/MA/MA500/MA0524.A.andB](https://healtharizonaplus.gov/PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA500/MA0524.A.andB). Qualified noncitizens include a refugee,
28

1 asylee and a battered person. A person’s immigration status is verified through the
2 Systematic Alien Verification for Entitlements (“SAVE”) program.

3 31. After a person is found eligible for AHCCCS, their case is recertified every
4 12 months. 42 C.F.R. § 435.916(a).

5 ***Ex Parte* Review Process Required for Renewals**

6 32. The Medicaid Act requires that state agencies use an “*ex parte*” review
7 process for recertifications. 42 C.F.R. § 435.916(a) and (b). For the “*ex parte*” review
8 process, AHCCCS “must make a redetermination of eligibility *without requiring*
9 *information from the individual* if able to do so based on reliable information contained in
10 the [case file] or other more current information available to the agency, including but not
11 limited to information accessed through data bases....” 42 C.F.R. § 436.916(a)(2)
12 (emphasis added). If the available information is not sufficient to determine eligibility,
13 then the agency must use a “pre-populated renewal form” that only seeks the information
14 missing. 42. C.F.R. § 435.916(a)(3). For these cases, an in-person interview is not
15 required. 42. C.F.R. § 435.916(a)(3)(iv). The purpose of the *ex parte* review process is to
16 cut down on errors that occur at recertification lessen the burden on beneficiaries to
17 submit duplicative or unchanging information, and reduce the number of eligible persons
18 who are terminated improperly from full-scope Medicaid.

19 **Constitutional and Medicaid Due Process Notice Requirements**

20 33. The Due Process Clause of the Fourteenth Amendment to the United States
21 Constitution prohibits the State from terminating a beneficiary’s health services without
22 first providing the individual adequate notice and an adequate hearing. U.S. Const.
23 Amend. XIV; *Goldberg v. Kelly*, 397 U.S. 254 (1970).

24 34. The Medicaid Act requires the state Medicaid agency to “provide for
25 granting an opportunity for a fair hearing before the State agency to any individual whose
26 claim for medical assistance under the plan is denied or is not acted upon with reasonable
27 promptness... .” 42 U.S.C. § 1396a(a)(3).

28

1 35. Medicaid regulations implement the Constitution and Act by requiring for
2 notice as follows. 42 C.F.R. § 431.206 requires that the agency must provide the
3 following information to claimants:

4 (a) The agency must issue and publicize its hearing
5 procedures.

6 (b) The agency must, at the time specified in paragraph (c)
7 of this section, inform every applicant or beneficiary in
8 writing–

9 (1) Of his right to a hearing.

10 (2) Of the method by which he may obtain a
11 hearing; and

12 (3) That he may represent himself or use legal
13 counsel, a relative, a friend, or other
14 spokesman.

15 (c) The agency must provide the information required in
16 paragraph (b) of this section–

17 ***

18 (1) At the time of any action affecting his or her
19 claim;

20 ***

21 42 C.F.R. § 431.206.

22 36. The federal regulations contain specific requirements for the content for
23 notices of decisions and information the agency must provide claimants. The federal
24 regulation, 42 C.F.R. § 431.210, requires that the content of a decision on eligibility or
25 services “must contain” the following information:

26 (a) A statement of what action the State ... intends to take;

27 (b) The reasons for the intended action;

28 (c) The specific regulations that support, or the change in
Federal or State law that requires, the action;

(d) An explanation of–

(2) The individual’s right to request an evidentiary
hearing if one is available, or a State agency
hearing; or

1 (3) In cases of an action based on a change in law,
2 the circumstances under which a hearing will be
3 granted; and

4 (e) An explanation of the circumstances under which
5 Medicaid is continued if a hearing is requested.

6 42 C.F.R. § 431.210.

7 37. The federal regulations also require that AHCCCS make available to
8 applicants or beneficiaries:

9 A copy of the specific policy materials necessary –

10 (1) To determine whether to request a hearing; or

11 (2) To prepare for a hearing.

12 42 C.F.R. § 431.18(e). In addition, the agency must make current rules and policies
13 available to its beneficiary population. 42 C.F.R. § 431.18(d). These materials must be
14 available without charge. 42 C.F.R. § 431.18(g).

15 38. Moreover, the applicant must be given the opportunity to examine:

16 (1) The content of the applicant’s ... case file; and

17 (2) All documents and records to be used by the state or
18 local agency ... at the hearing.

19 42 C.F.R. § 431.242(a).

20 **FACTUAL ALLEGATIONS**

21 39. Many refugees and other qualified immigrants entitled to full Medicaid do
22 not speak or read English. They also may have cultural barriers because they came from
23 a country where there was limited or unavailable health care or the health care system
24 was very different from the one in Arizona. In addition, the immigrants may not have
25 had any medical care for many years.

26 40. Plaintiffs’ counsel sent AHCCCS a letter in October 2015 concerning the
27 improper transfer of immigrants qualified for full-scope AHCCCS from full-scope
28 AHCCCS to emergency-only AHCCCS. In response, AHCCCS admitted the eligibility

1 errors were caused by its computer systems and worker errors. Subsequently, AHCCCS
2 admitted it identified over 3500 immigrants improperly transferred to emergency-only
3 AHCCCS and reinstated these persons to full-scope AHCCCS.

4 41. The improper reductions of immigrant medical benefits from full-scope
5 AHCCCS continue. As 2016 progressed, AHCCCS improperly reduced the medical
6 benefits for some immigrants a second time.

7 42. On information and belief, currently, applications and recertifications for
8 food stamps or supplemental nutrition assistance submitted pursuant to the federal Food
9 Stamp Act, 7 U.S.C. § 2010 (now called the Supplemental Nutrition Assistance Program
10 or SNAP) are processed through the older AZTECS computer system.

11 43. On information and belief, all applications and recertifications for
12 AHCCCS benefits eligibility are processed through the newer Health-e Arizona Plus
13 (“HEAPlus”) computer system.

14 44. On information and belief, although thousands of immigrants were
15 improperly transferred to emergency only AHCCCS at recertification, their food stamp
16 recertifications were properly processed and they were found eligible for food stamps.

17 45. AHCCCS admitted that there were problems with its HEAPlus computer
18 system. One problem noted was that the computer system improperly required the 5-year
19 status in cases where the 5 years requirement did not apply. Thus, as an example, if a
20 refugee who is entitled to full AHCCCS becomes a legal permanent resident (“LPR”),
21 their entitlement to full AHCCCS is not affected. At the person’s recertification, the
22 AHCCCS computer did not recognize the person as a refugee and instead looked at them
23 solely as an LPR who did not have 5 years in that immigration status and found them
24 eligible only for emergency services.

25 46. The Arizona Administrative Code R9-22-306(c) provides that for a
26 recertification for continuing Medicaid eligibility, AHCCCS “shall renew eligibility
27 without requiring information from the individual if able to do so based on reliable
28 information available to the agency, including through an electronic data match.” The

1 rule requires AHCCCS to use a “pre-populated renewal form” to request information. *Id.*
2 at (c)(2)(a). This rule is not as comprehensive as the federal regulation or is not
3 implemented consistent with the federal requirements.

4 47. The AHCCCS administration publishes a policy manual that both tells
5 workers how to process cases and provides the public with information about AHCCCS’
6 policies and practices. [https://healthearizonaplus.gov/PolicyManual/eligibilitypolicy](https://healthearizonaplus.gov/PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA1400?MA1402.html#)
7 [manual/index.html#page/MA/MA1400?MA1402.html#](https://healthearizonaplus.gov/PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA1400?MA1402.html#).

8 48. The AHCCCS policy manual section on renewals does not implement
9 federal law on *ex parte* renewals. As examples, the policy lists some information that
10 does not need to be obtained at each renewal such as a social security number. Omitted
11 from the list is an immigrant’s alien number, which is like a social security number.
12 When an immigrant obtains an alien number, the number stays with the immigrant for
13 life. On information and belief, case workers request the alien number at each
14 recertification and incorrect numbers are obtained or inputted into the computer system
15 causing errors that lead to the person losing their full AHCCCS and being improperly
16 transferred to emergency only AHCCCS.

17 49. The policy lists “non-citizen status” as not needing to be verified at renewal
18 unless there has been a change in immigration status. [https://healthearizonaplus.gov/](https://healthearizonaplus.gov/PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA1400?MA1402.html#)
19 [PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA1400?MA1402.html#](https://healthearizonaplus.gov/PolicyManual/eligibilitypolicymanual/index.html#page/MA/MA1400?MA1402.html#).
20 On information and belief, AHCCCS routinely asks about immigration status for all
21 immigrants at recertification causing errors although immigration information on status is
22 in the case file or could be checked through SAVE by using the alien number. As an
23 example, an immigrant may improperly note that their immigration status is “other” when
24 the AHCCCS file contains their correct immigration status. The “other” immigration
25 status is used and the person is found eligible only for emergency services.

26 50. AHCCCS policies and practices allow the agency to ask about such matters
27 as the person’s immigration status and alien number when that information is in the case
28 file or obtainable from the federal database – SAVE. These unnecessary requests for

1 information cause errors that result in immigrants who are eligible for full AHCCCS
2 being transferred to emergency only AHCCCS.

3 51. AHCCCS policy and practices fail to process recertifications for
4 immigrants pursuant to the *ex parte* process.

5 52. AHCCCS sends out a “Benefits and Services” notice when a person is
6 approved for emergency-only AHCCCS or transferred from full-scope AHCCCS to
7 emergency-only AHCCCS. This is a boilerplate notice.

8 53. For the notice where the person’s medical eligibility has been reduced
9 from full-scope AHCCCS to emergency-only AHCCCS the notice states the person’s
10 “Medical Assistance Changed.” The notice states each person’s “full medical services”
11 will “stop” and “Federal Emergency Services” will “start.” The reason for this action is
12 “your immigration status does not let you get full medical services.” There is no
13 explanation of what “emergency” medical services are and how they compare to “full”
14 medical services. For a person whose eligibility for AHCCCS benefits changed, there is
15 no meaningful explanation of this change. As a result of the lack of meaningful
16 information, the recipient would not understand the differences in medical coverage, the
17 reason she is not eligible for full-scope AHCCCS and whether AHCCCS made a mistake.
18 These omissions are critical because all these persons previously received full-scope
19 AHCCCS.

20 54. Similarly, this same notice is used when an applicant is initially found
21 eligible for emergency-only AHCCCS. In that case, the notice states “Medical
22 Assistance Approved - Federal Emergency Services Only.” The notice states, “You can
23 get emergency services coverage only.” There is no explanation of what “emergency
24 services” means. The reason provided is “[y]ou cannot get full medical services because
25 of your immigration status.” The person’s purported immigration status and qualifying
26 immigration statuses for full-scope AHCCCS are not provided. As a result of the lack of
27 meaningful information, the recipient or reader would not understand the differences in
28

1 medical coverage, why he or she was not eligible for full-scope AHCCCS, and whether
2 AHCCCS made a mistake.

3 55. There are other deficiencies in these notices. They include that for legal
4 authority in the notices, AHCCCS uses legal cites with no explanation. The recipient is
5 told he or she can find the laws at a public library or on the internet. The notice
6 incorrectly informs the person that they can review “portions of the case file necessary
7 for proper presentation of your case.” Information about “Options to Continue Benefits”
8 is confusing. The totality of these notices is that the recipient immigrant does not
9 understand their rights to benefits and their rights to appeal.

10 **Plaintiff Aita Darjee**

11 56. Plaintiff Aita Darjee came to the U.S. in 2011 with her husband Dambar
12 and their minor child N.D. as refugees from Nepal. As refugees, they are eligible for and
13 received full AHCCCS.

14 57. In 2012, they all became legal permanent residents (“LPR”). Plaintiff
15 Darjee gave AHCCCS/DES their immigration cards with their immigration numbers on
16 the cards.

17 58. Last year, AHCCCS improperly reduced their medical eligibility from full-
18 scope AHCCCS to emergency only AHCCCS. Subsequently, AHCCCS put them back
19 on full AHCCCS.

20 59. Earlier this month, they found out their AHCCCS benefits again were
21 reduced from full-scope AHCCCS to emergency only benefits. Because of the urgency
22 of his health conditions and need for medications, legal aid advocacy efforts were
23 underway to restore his benefits to full-scope AHCCCS. The restoration of his benefits
24 and those for his wife and son are imminent if not complete.

25 60. Plaintiff’s husband has several medical conditions. He has diabetes that is
26 not very well controlled, high blood pressure, high cholesterol and asthma. His
27 medications include the following: inhaler for his asthma, Metformin and Lovastatin for
28 his diabetes, Lisinopril for his high blood pressure and Atorvastatin for his high

1 cholesterol. He must check his blood sugar every day and needs medical supplies to do
2 the blood sugar check. He is supposed to go to the doctor each month to have his blood
3 sugar tested.

4 61. Last year, her husband had severe chest pains and a rapid heartbeat. He
5 was very scared and he went to the hospital. He stayed in the hospital about 3 days. That
6 is how they found out he has high blood pressure and diabetes.

7 62. Her husband had a doctor appointment scheduled for earlier this month to
8 get his blood sugar checked. The doctor's office called and cancelled the appointment.
9 That is how they found out they are now on emergency AHCCCS. Emergency AHCCCS
10 will not pay for doctor visits or prescriptions. They did not get any notice explaining the
11 reduction in medical coverage and they do not know why it happened.

12 63. Her husband's medications are about to run out. They have no money to
13 pay for his medications or for him to go to the doctor for his monthly check of his blood
14 sugar. Without his medications, he will be dizzy. If he hears people talking, he will
15 become angry. He will be very scared if his heartbeat goes up.

16 64. Plaintiff Darjee goes to the doctor when she does not feel well. She has a
17 cold about 4-5 times each month. The cold never really leaves her. When her cold gets
18 bad, she goes to the doctor and they put a machine on her nose to make her feel better.

19 65. About 2 months ago, she went to the hospital because her stomach was
20 hurting. She was told that she has a "gastric" problem. She received a prescription for
21 her stomach problems. If the stomach pain comes back, she will need more medication.
22 They have no money to the doctor or to get her prescriptions filled.

23 66. Their son N. D. needs to go to the doctor before he starts school. Last year,
24 he fell off a swing at school. His head was swollen and he had spots all over his body.
25 The spots caused N. D. to itch very badly. They took him to the hospital and the doctor
26 said N. D. has allergies. The doctor prescribed a lotion to put on N. D.'s body. If the
27 spots come back, they will need to get N. D. more medicine. They have no money to
28 take N. D. to the doctor or to get any medications for him.

1 67. Plaintiff Darjee and her husband are very worried about their health if they
2 only have emergency-only AHCCCS. They understand that if they become sick they will
3 have to go to the emergency room. They do not want to get so sick they have to go to the
4 emergency room. They want to be able to get their needed medications and see their
5 doctors to stay as healthy as they can.

6 68. Even though their AHCCCS changed in July 2016, they continue to get
7 food stamps.

8 69. The thought of not being able to see their doctors and get their medications
9 has caused them a lot of worry. They are very stressed over this situation. Plaintiff
10 Darjee is especially worried about her husband.

11 70. This change in their AHCCCS has happened to them 2 times. Even if
12 AHCCCS puts them back on full AHCCCS, they are worried that this will happen again.
13 They want these changes to stop. They do not understand why the changes happened.

14 71. The notices they received from AHCCCS and DES do not have any
15 information in Nepali.

16 **Plaintiff Alma Sanchez Haro**

17 72. Plaintiff Sanchez Haro receives medical assistance through AHCCCS. She
18 has been on full-scope AHCCCS for many years. Since April 2016, she has been on
19 emergency-only AHCCCS. In 2003, she received an immigration card because she was a
20 victim of domestic violence. The program is called the Violence Against Women Act or
21 VAWA. She was eligible for full-scope AHCCCS because of the VAWA program.

22 73. In January 2015, Ms. Sanchez Haro became a legal permanent resident
23 (“LPR”). She gave AHCCCS/ DES her LPR card with her immigration number on it.
24 From at least 1991 to when she received her LPR card in 2015, she lived in Tucson and
25 did not leave the United States.

26 74. Plaintiff Sanchez Haro recertified for her food stamps and AHCCCS in
27 2015. She was found eligible for both food stamps and full-scope AHCCCS.

28 75. In April 2016, Ms. Sanchez Haro received a notice that her AHCCCS had

1 changed and she was no longer eligible for full-scope AHCCCS. She did not understand
2 the notice. She asked her daughter to help her understand the notice but her daughter
3 could not help her understand why she was not eligible for full-scope AHCCCS.

4 76. There was a telephone number for her to call if she had questions. She
5 called the telephone number and spoke with someone who spoke Spanish. She asked the
6 person why her AHCCCS was changed. The person said because Ms. Sanchez Haro had
7 not been a legal permanent resident for 5 years. The person told her the law changed in
8 January 2016.

9 77. Even though Ms. Sanchez Haro's AHCCCS benefits were reduced to
10 emergency only, she continues to get food stamps.

11 78. Ms. Sanchez Haro has several medical conditions. She has severe
12 depression, anxiety, diabetes type II, high blood pressure, high cholesterol and muscle
13 cramps caused by her diabetes. About 3-4 years ago, she was diagnosed as having a
14 serious mental illness or "SMI." She is not able to work and has applied for
15 Supplemental Security Income ("SSI"). She feels very alone and sad. She often has
16 crying spells. She feels desperate and wants to run away.

17 79. Her doctors have prescribed the following medications for her: two
18 injectable insulins for my diabetes, Metformin and Lovastatin for my diabetes, Lisinopril
19 for her high blood pressure, Atorvastatin and Fenofibrate for her high cholesterol,
20 Cyclobenzaprin for muscle cramps, Gabapentin for her nerve pain, Sertranline and
21 Buspirone for her depression and anxiety and Trazodone to help her sleep. She is very
22 depressed about her medical conditions.

23 80. When she was put on emergency-only AHCCCS, Ms. Sanchez Haro was
24 told that AHCCCS will not pay for her doctor appointments or to get her prescriptions
25 filled. She sees a doctor at La Frontera once a month for her severe and chronic
26 depression and anxiety. She gets her other medical care from El Rio. Her doctor at La
27 Frontera has filled out a form with DES that she is not able to work.

28 81. Now that she is not on full-scope AHCCCS, El Rio wants her to pay for her

1 medications and to see the doctor. She does not have any money to pay for her medical
2 care. El Rio asked her to make payments but she had no money. She was not able to get
3 her medications for over 2 weeks. Recently, El Rio started to give her the medications
4 again but they could change their mind at any time. She is not seeing her doctor at El Rio
5 because she cannot pay for the visit. She has not seen a doctor at El Rio since April.

6 82. The 2-3 weeks she was off her medications were horrible for her. She was
7 trembling, shaking, vomiting and her head burned. She was suicidal and very depressed.

8 83. La Frontera also wants her to pay for her medical care she gets there but she
9 told them she has no money. La Frontera is trying to find an insurance company to pay
10 for her doctor visits and medications. There is no guarantee that she will be able to
11 continue to get medical help from them. She does not know what she would do if the
12 medical care stopped.

13 84. She has to inject the insulin into her stomach 4 times a day. The pharmacy
14 told her she had to pay for the medications. She told them she had no money. They
15 recently started to give her the insulin again but she constantly worries they will change
16 their mind.

17 85. The thought of having to pay for her medications and the doctor visits has
18 caused her a lot of anxiety. She is very stressed over her situation. She is constantly
19 worried about the future of her health.

20 **CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

22 **(Violation of Medicaid Act)**

23 1. Plaintiffs restate and incorporate by reference each of the allegations
24 contained in paragraphs 1-85, above.

25 2. Defendant Betlach's improper transfer of immigrants residents of Arizona
26 eligible for full-scope AHCCCS benefits, who have been or will be required to recertify
27 their benefits and whose benefits have been or will be improperly reduced to emergency-
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1 only AHCCCS violates the Medicaid Act, 42 U.S.C. §1396a(a)(8), which is enforceable
2 by Plaintiffs in this Court pursuant to 28 U.S.C. § 1331 and pursuant to 42 U.S.C. § 1983.

3 3. Plaintiffs are suffering or are in danger of suffering irreparable harm.
4 Plaintiffs have no adequate remedy at law.

5 **SECOND CLAIM FOR RELIEF**

6 **(Violation of U.S. Constitution, Social Security Act-Medicaid)**

7 4. Plaintiffs restate and incorporate by reference each of the allegations
8 contained in paragraphs 1-85, above.

9 5. Defendant Betlach's written eligibility notice, as described herein, violates
10 the Due Process Clause of the U.S. Constitution, U.S. Const. Amend. XIV, and the
11 Medicaid Act, 42 U.S.C. § 1396a(a)(3), which are enforceable by Plaintiffs in this Court
12 pursuant to 28 U.S.C. § 1331 and pursuant to 42 U.S.C. § 1983.

13 6. Plaintiffs are suffering or are in danger of suffering irreparable harm.
14 Plaintiffs have no adequate remedy at law.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs respectfully ask this Court:

- 17 A. Certify this case as a class action.
- 18 B. Issue a declaratory judgment holding that:
- 19 1. Defendant Betlach has violated and continues to violate the
20 federal Medicaid Act, 42 U.S.C. § 1396a(a)(8).
- 21 2. Defendant Betlach has violated and continues to violate the
22 Due Process Clause of the U.S. Constitution and the federal
23 Medicaid Act, 42 U.S.C. § 1396a(a)(3).
- 24 C. Grant preliminary and permanent injunctions that:
- 25 1. Prohibit Defendant Betlach from violating 42 U.S.C.
26 § 1396a(a)(8) by reducing health care benefits for refugees
27 and other immigrants found eligible for full-scope AHCCCS
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to emergency only AHCCCS when they recertify their eligibility.

2. Prohibit Defendant Betlach from violating the Due Process Clause of the U.S. Constitution and the federal Medicaid Act, 42 U.S.C. § 1396a(a)(3) by using the Benefits and Services Notices of eligibility for emergency only eligibility.

3. Require Defendant Betlach to prospectively reinstate all immigrants who were sent or received the improper eligibility notice until a lawful proper eligibility notice is sent to each person.

D. Award Plaintiffs their reasonable attorneys’ fees and costs against Defendant pursuant to 42 U.S.C. § 1988.

E. Grant such other relief as may be just and proper.

Respectfully submitted this 22nd day of July 2016.

NATIONAL HEALTH LAW PROGRAM
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