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ENDORSED  
FILED  
ALAMEDA COUNTY

OCT - 6 2011

CLERK OF THE SUPERIOR COURT  
By VICKI DAYBELL  
Deputy

7 *Attorneys for Respondent, John A. Wagner,*  
8 *Director, California Department of Social Services*  
9 *& California Department of Social Services*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

12 **MORAYMA LOPEZ,**

13  
14 Petitioner,

15 v.

16 **JOHN A. WAGNER, DIRECTOR,**  
17 **CALIFORNIA DEPARTMENT OF**  
18 **SOCIAL SERVICES; CALIFORNIA**  
**DEPARTMENT OF SOCIAL SERVICES,**

19 Respondents.

Case No. RG 10542784

**SETTLEMENT AGREEMENT AND ORDER**

Action Filed: October 21, 2010  
Judge: Hon. Frank Roesch

20 1. The parties to this Settlement Agreement (Settlement Agreement or Agreement) are  
21 Petitioner, Morayma Lopez (petitioner or Lopez) and Respondents John A. Wagner, Director,  
22 California Department of Social Services, and California Department of Social Services  
23 (collectively referred to as CDSS). CDSS supervises the administration of the CalFresh Program  
24 (formerly Food Stamps), and counties actually implement and administer the program. In doing  
25 so, counties are required to comply with federal and state law, including applicable regulations.  
26 Counties must also comply with directives issued by CDSS as All County Letters (ACLs).  
27 Under federal law, if a recipient is found guilty of certain violations related to the program, that  
28 recipient will be disqualified from receiving benefits due to an Intentional Program Violation

1 (IPV) for a period of 12 months, 24 months, or permanently, depending on the nature of the  
2 violation and whether it is a first or subsequent violation.

3 2. Petitioner's household receives CalFresh benefits. On June 17, 2003, petitioner  
4 received a Notice of Action (NOA) that she was disqualified from receiving benefits for a year  
5 from July 1, 2003 to June 30, 2004 due to an IPV. When the disqualification period ended,  
6 petitioner was not reinstated, although she continued to receive benefits on behalf of her minor  
7 children. Lopez did not receive CalFresh benefits from July 2004 to June 2009 despite her  
8 eligibility for those benefits. The county improperly recorded that she had been disqualified for a  
9 work violation, which is not limited to a 12 or 24-month period. In June 2009, petitioner  
10 contacted Alameda County and the error was discovered. The county restored 12 months of  
11 benefits, from June 2008 to June 2009 in accordance with program rules that limit reinstatement  
12 of benefits to 12 months prior to the discovery of an administrative error.

13 3. Lopez brought this suit seeking relief under Code of Civil Procedure sections 1094.5 and  
14 1085, alleging that Alameda County improperly failed to reinstate her after a one-year exclusion  
15 from benefits due to her receipt of an IPV, and had no adequate processes in place to add  
16 disqualified members back to the household at the end of IPV disqualification periods or obtain  
17 restoration of aid. Specifically, Lopez claims that Alameda County should have treated her  
18 annual recertification application as a request to restore benefits each year when the application  
19 was reinstated. CDSS denies these allegations.

20 4. CDSS maintains that petitioner's annual applications for recertification of benefits were  
21 not requests to restore benefits following the IPV since they did not provide Alameda County  
22 notice that an administrative error had occurred. Additionally, CDSS contends that benefits  
23 cannot be restored if the County Welfare Department discovers that a loss occurred more than 12  
24 months prior to the date of discovery. (7 C.F.R. § 273.17 & Manual of Policies and Procedure  
25 (MPP) § 63-802.12). Therefore, CDSS maintains that Lopez is entitled only to benefits for a 12-  
26 month period prior to June 2008, and that the annual recertification application does not constitute  
27 a request for restoration of benefits. Petitioner denies CDSS's contentions.  
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1           5. The parties are desirous of settling this entire action, and agree to the following terms:

2           A.       CDSS agrees to provide Petitioner with \$2,261.50 in CalFresh benefits, to  
3 fully resolve her request for relief pursuant to Code of Civil Procedure section 1094.5. Within 30  
4 days of the Court's entering an order approving settlement, CDSS will issue a new decision  
5 (Decision) directing Alameda County to provide CalFresh benefits in the amount of \$2,261.50.

6           B.       To fully resolve the Code of Civil Procedure section 1085 request for  
7 relief, CDSS will do the following: within ninety (90) days from the receipt of the signed court  
8 order approving this settlement agreement, issue an All County Letter (ACL) to counties,  
9 including changes to relevant forms, the contents of which has been agreed upon by the parties  
10 and is attached as Exhibit A and incorporated by reference herein.

11           6. Should there be substantive changes to the forms and ACL, subsequent to the court's  
12 approval of this agreement, CDSS will permit petitioner thirty days to comment, and will  
13 consider petitioner's comments in drafting the final ACL.

14           7. In the year following the final issuance of the ACL and forms, should CDSS seek to  
15 make any changes to the forms or procedures described in Exhibit A, the parties shall meet and  
16 confer, and consider counsel for petitioner's comments. CDSS need not meet and confer about  
17 any changes to the attachments mandated by directives made by the federal government, and  
18 instead, shall only provide petitioner's counsel notice of these changes.

19           8. CDSS agrees to pay reasonable attorneys' fees to petitioner's counsel, in an amount to  
20 be negotiated by the parties. If agreement cannot be reached on the amount of attorneys' fees,  
21 petitioner's counsel may file a motion for attorneys' fees under California Code of Civil  
22 Procedure §§ 10962 and 1021.5 no later than 120 days after the Court files the Order, but any  
23 such motion shall concern the amount of fees only, as the parties agree that petitioner's counsel  
24 are entitled to reasonable attorneys' fees.

25           9. The intent of this Settlement Agreement is to comply with 7 C.F.R. § 273.21(f)(1)(iv),  
26 MPP § 63-504.353(b)(1) and 63-802.12, and Welfare and Institutions Code sections 10500,  
27 10605, subdivision (a), and 11004. In the event that the statutes and regulations cited here are  
28

1 modified or repealed, nothing in the Agreement should be construed to require CDSS to comply  
2 with obligations that no longer exist in the statutes or regulations cited, and the parties agree that  
3 this Agreement will not provide an independent basis to enforce any such obligations.

4 10. The parties have entered into this Agreement to resolve with finality all pending claims  
5 between them and to avoid the time and expense of litigation.

6 11. The parties agree that this Agreement is the product of mutual negotiation and  
7 preparation and accordingly, shall not be deemed to have been prepared or drafted by either party.  
8 The parties further agree that any court seeking to interpret it should construe the Settlement  
9 Agreement as the product of mutual negotiation and preparation.

10 12. In consideration of the settlement of this action, the parties agree to suspend litigation,  
11 and petitioner agrees to dismiss the action with prejudice within 10 days of the Court's issuance  
12 of its Order. The parties agree that the court may retain jurisdiction of this case, so that any  
13 disputes concerning compliance may be brought under this action until two years after court  
14 approval of this Settlement Agreement, and at that time, any additional action enforcing the terms  
15 of the Settlement Agreement must be brought as a new action.

16 13. If petitioner's counsel has reason to believe CDSS is not complying with the terms of  
17 this Settlement Agreement and Order, counsel shall inform CDSS's counsel, and the parties shall  
18 attempt to resolve the issue informally before pursuing a judicial remedy.

19 14. In any proceeding to enforce the obligations contained in this Agreement, the court  
20 shall be limited to ensuring that the relief requested is necessary to comply with 7 C.F.R. §  
21 273.21(f)(1)(iv), MPP § 63-504.353(b)(1), 63-508.655 and 63-802.12, and Welfare and  
22 Institutions Code sections 10500, 10605, subdivision (a), and 11004. In the event that these  
23 statutes or regulations are modified or repealed, however, nothing in the Agreement should be  
24 construed to require CDSS to comply with obligations that no longer exist in the statutes or  
25 regulations cited, and the parties agree that this Agreement will not provide an independent basis  
26 to enforce any such obligations.

27 15. The terms set forth here constitute the entire agreement between the parties in respect  
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1 to this proceeding and are not subject to modification except by a writing signed by both  
2 parties or the parties' counsel of record.

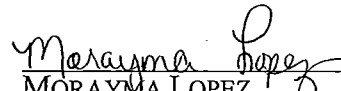
3 16. This Settlement Agreement does not represent an admission by either party of the  
4 liability or non-liability of CDSS as alleged in the Petition for Writ of Mandate.

5 17. Prior to the execution of this Settlement Agreement, both parties apprised themselves  
6 of sufficient relevant data to make an informed decision to enter into this agreement.


7 18. The parties enter into this Settlement Agreement freely and voluntarily having  
8 consulted and been advised by counsel. Counsel of record for both parties have full authority to  
9 execute this Settlement Agreement on their behalf. This Agreement may be executed in one or  
10 more counterparts.

11 IT IS SO STIPULATED

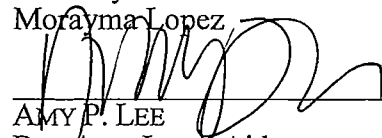
12 Dated: <sup>October</sup> ~~September~~ 3, 2011

  
MORAYMA LOPEZ  
Petitioner

14 Dated: September 30, 2011

  
ANTIONETTE DOZIER  
Western Center on Law and Poverty  
Attorney for Petitioner  
Morayma Lopez

17 Dated: <sup>Oct 3</sup> ~~September~~ \_\_, 2011

  
AMY P. LEE  
Bay Area Legal Aid  
Attorney for Petitioner  
Morayma Lopez

20 Dated: September \_\_, 2011

ALI MANSFIELD  
Senior Assistant Chief Counsel  
California Department of Social Services

KAMALA D. HARRIS  
Attorney General of California  
SUSAN M. CARSON  
Supervising Deputy Attorney General

25 Dated: September \_\_, 2011

BEVERLEY R. MEYERS  
Deputy Attorney General  
*Attorneys for Respondents*

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12 Dated: September \_\_, 2011

\_\_\_\_\_  
MORAYMA LOPEZ  
Petitioner

14 Dated: September \_\_, 2011

\_\_\_\_\_  
ANTIONETTE DOZIER  
Western Center on Law and Poverty  
Attorney for Petitioner  
Morayma Lopez

17 Dated: September \_\_, 2011


\_\_\_\_\_  
AMY P. LEE  
Bay Area Legal Aid  
Attorney for Petitioner  
Morayma Lopez

20 Dated: September \_\_, 2011

\_\_\_\_\_  
ALI MANSFIELD  
Senior Assistant Chief Counsel  
California Department of Social Services

KAMALA D. HARRIS  
Attorney General of California  
SUSAN M. CARSON  
Supervising Deputy Attorney General

25 Dated: September 29, 2011

  
\_\_\_\_\_  
BEVERLEY R. MEYERS  
Deputy Attorney General  
*Attorneys for Respondents*

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12 Dated: September \_\_, 2011

MORAYMA LOPEZ  
Petitioner

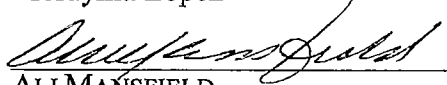
14 Dated: September \_\_, 2011

ANTIONETTE DOZIER  
Western Center on Law and Poverty  
Attorney for Petitioner  
Morayma Lopez

17 Dated: September \_\_, 2011

AMY P. LEE  
Bay Area Legal Aid  
Attorney for Petitioner  
Morayma Lopez

20 Dated: September 28, 2011

  
ALI MANSFIELD  
Senior Assistant Chief Counsel  
California Department of Social Services

KAMALA D. HARRIS  
Attorney General of California  
SUSAN M. CARSON  
Supervising Deputy Attorney General

25 Dated: September \_\_, 2011

BEVERLEY R. MEYERS  
Deputy Attorney General  
*Attorneys for Respondents*

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**ORDER**

*Approved and*  
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The terms of the above-stipulated Settlement Agreement are hereby ORDERED.

**FRANK ROESCH**

DATED: OCT - 6 2011

JUDGE OF THE SUPERIOR COURT

SF2010401124/20530809



## **EXHIBIT A: LOPEZ V. WAGNER ALL COUNTY LETTER:**

The purpose of this letter is to provide clarification and procedures relating to Intentional Program Violations (IPVs) in the CalFresh program as required in the *Lopez v. Wagner* lawsuit. The Notice of Administrative Disqualification (DFA 377.7A) form has been modified, as discussed below, and CWDs must implement the revised form and the requirements described in this letter as soon as administratively possible, but no later than six months from issuance of this All County Letter (ACL).

### **NOTICE OF DISQUALIFICATION FORM:**

Upon an administrative disqualification for an IPV, counties will continue to provide a notice of the disqualification period by way of form DFA 377.7A, which has been amended to provide additional information on how a former recipient may resume his or her benefits upon expiration of the IPV disqualification penalty. (MPP §§ 20-300.25 and 63-508.655.) In addition, the lawsuit required that CDSS create a new form for the IPV recipient to request restoration of benefits following an IPV. This form will be attached to the DFA 377.7A, and counties are required to include the form with the DFA 377.7A.

### **MONTHLY IPV REPORTS/REINSTATEMENT PROCEDURES:**

The lawsuit requires counties to prepare a monthly report of IPV disqualification periods that end within the next calendar month, an example of which is attached as Addendum A to this letter. Each county must prepare the report 30 days prior to the calendar month for which the report will be utilized. Based on the report, the county shall take the following actions:

a) If the disqualified recipient is still a member of the CalFresh household with which he or she was previously receiving benefits, then the county will automatically add the recipient to the CalFresh household the month subsequent to the expiration of the disqualification period, subject to the continuing eligibility of the household. In the case of a missing verification, the county will notify the household and allow at least ten (10) days for the verification to be

returned. The individual will not be added back to the household if the requested verification is not received.

b) If the disqualified recipient is now a member of a different CalFresh household, and this has been reported to the CWD, then the CWD will automatically add the recipient to the CalFresh household the month subsequent to the expiration of the disqualification period, subject to the continuing eligibility of the household. If the disqualified recipient is now a member of a different CalFresh household, and the change in household has not been reported to the CWD, then the recipient shall be added to the household subsequent to the end of the disqualification period if the county receives a request to add the person. This request may, but is not required to be, accomplished by the new form described above. The recipient can also make this request by calling or writing his/her county worker, indicating a change in household on the QR 7 Form, or by any other methods established by the county.

c) If the former recipient does not reside in a CalFresh household, the former recipient must reapply for CalFresh.

When the former recipient is added to the household, the CWD shall also send the QR 377.4 notice, as is standard when there is a change in benefits. Note: All information included on the state developed forms is required to be included on forms generated by automated systems.

## **CAMERA-READY COPIES AND TRANSLATIONS**

For camera-ready copies of the English language version of the DFA 377.7A form, contact (CDSS) Forms Management Unit at: [fmudss@dss.ca.gov](mailto:fmudss@dss.ca.gov). If your office has internet access, you may obtain this form from the CDSS web page at:

<http://www.cdss.ca.gov/cdssweb/PG19.htm>

When all translations are completed per MPP Section 21-115.2, they will be posted on an ongoing basis on our website. Copies of the translated forms and publications can be obtained

at:

[http://www.dss.cahwnet.gov/cdssweb/FormsandPu\\_274.htm](http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm)

For questions on translated materials, please contact Language Services at (916) 651-8876.

If you have any questions regarding the content of this letter, please contact Mike Papin at (916) 654-1880, or email at [mike.papin@dss.ca.gov](mailto:mike.papin@dss.ca.gov).

Sincerely,

CHARR LEE METSKER  
Deputy Director  
Welfare to Work Division  
Attachments

**DFA 377.7A Changes:**

On the page titled "NOTICE OF ADMINISTRATIVE DISQUALIFICATION," after the section titled "DISQUALIFICATION PENALTY," insert:

**END OF DISQUALIFICATION**

- If you were disqualified for 12 or 24 months and still live in the same CalFresh household, you should begin to receive CalFresh automatically the month after the end date listed above. If that does not happen, you should call your worker or return the attached form.
- If you live in a new CalFresh household, you must request to be added to the household after the end date listed above.
- If you do not live in a household that receives CalFresh at the end of the disqualification period, you must reapply for CalFresh.
- You may return the form on the next page to request that your CalFresh be restored.
- If you were permanently disqualified from the CalFresh program, you cannot have your CalFresh restored.

**New Post-IPV Restoration Form:**

Insert on separate page, after the page titled "NOTICE OF ADMINISTRATIVE DISQUALIFICATION":

\*Note: would need to be "turned off" or completed as not applicable in the case of a permanent disqualification.

**REQUEST FOR RESTORATION OF CALFRESH AFTER ADMINISTRATIVE DISQUALIFICATION**

Case Name: Generated?

Case Number: Generated?

I was disqualified from receiving CalFresh from Generated? to Generated?.

     I live in the same CalFresh household where I previously received benefits and they did not restart after the end date listed above.

     I live in a new household that receives CalFresh. I request to be added to that CalFresh household. The household's information is as follows:

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

     My new household does not receive CalFresh. Please send me an application at the following address:

\_\_\_\_\_

\_\_\_\_\_

Deliver this form to your welfare office, or mail it to the following address:

Generated?

Generated?

Generated?