

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

Chianne D., et al.,

Plaintiffs,

v.

Case No. 3:23-cv-985-MMH-LLL

Shevaun Harris, et al.,

Defendants.

_____ /

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' MOTION FOR STAY PENDING APPEAL**

Defendants seek the extraordinary remedy of a stay pending appeal almost exclusively based on the cost of compliance. But cost alone is not enough. Defendants must “clearly establish[] the burden of persuasion as to each of the four prerequisites,” including success on the merits. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). They have not plausibly done so. Defendants’ cursory merits discussion avoids grappling at all with the Court’s detailed legal and factual findings.

In any event, Defendants’ irreparable harm claims are hyperbolic and self-inflicted. Their motion reveals that, by Defendants’ own accounting, the necessary notice changes can be completed with a minimal amount of money and in a manageable timeframe—less than \$500,000 and 3,200 hours of work—which is much less than what Defendants asserted at trial. Given that more than 45 days have passed

since the Court entered judgment—and years since the agency was first aware of the problematic notices—these changes should be well under way. Yet, at the time of filing their motion, Defendants had not even paused terminations, offering no credible explanation why they had not taken this most basic step toward compliance. Their delay—whether by choice or not—cannot support a finding of irreparable harm.

Nor have Defendants offered any reason why their (largely unsubstantiated) cost concerns should outweigh the significant, ongoing, and unrebutted harm to the class from the continued use of inadequate notice. As the Court previously observed, “the State does not cite any case where a court has found such cost arguments to outweigh the harm caused by an ongoing unconstitutional policy or practice.” ECF No. 186 at 249. Nor have they here. Defendants have failed to meet their burden of proof, and the Motion should be denied.

ARGUMENT

I. **Applicable Law**

A stay pending appeal “is an ‘extraordinary and drastic remedy.’” *Fla. v. Dep’t of Health & Hum. Servs.* (“*HHS*”), 19 F.4th 1271, 1279 (11th Cir. 2021) (quoting *Siegel*, 234 F.3d at 1176). To succeed, Defendants must prove each of four factors: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the

proceeding; and (4) where the public interest lies.’” *Nken v. Holder*, 556 U.S. 418, 426 (2009); *see, e.g., Trump v. United States*, No. 22-13005, 2022 WL 4366684, at *7 (11th Cir. Sept. 21, 2022) (applying *Nken*).

Where the movant cannot meet the first prong, courts “need not and do not address the other *Nken* factors.” *Alabama State Conference of NAACP v. Allen*, No. 25-13007, 2025 WL 3091433, *2, n. 2 (11th Cir. Oct. 30, 2025). And while it is true courts sometimes accept “a lesser showing of a substantial case on the merits,” that is appropriate only “when the balance of the [other factors] weighs heavily in favor of granting the stay.” *Garcia-Mir v. Meese*, 781 F.2d 1450, 1453 (11th Cir. 1986) (internal quotations omitted). Even then, “[i]t is not enough that the chance of success on the merits be better than negligible.” *HHS*, 19 F.4th at 1279 (quoting *Nken*, 556 U.S. at 434). The applicant must still “present a substantial case on the merits” in such circumstances. *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir. 1981). Here, Defendants fail on the first prong such that no further analysis is warranted. *Alabama*, 2025 WL 3091433 at *2, n. 2. However, because Defendants dedicated over half of their motion to the other, less critical prongs, Plaintiffs respond in the entirety.

II. Defendants are not entitled to a stay under the *Nken* factors.

A. Defendants have not demonstrated a serious question on the merits, let alone a likelihood of success on appeal.

When an appeal is taken from a bench trial, the Eleventh Circuit reviews the district court’s legal conclusions and application of the law to the facts *de novo*; factual

findings are evaluated under the “clear-error standard.” *U.S. Commodity Futures Trading Commission v. Southern Trust Metals, Inc.*, 894 F.3d 1313, 1322 (11th Cir. 2018) (citations omitted). From the cursory analysis in their pending motion, it is unclear whether Defendants intend to raise a factual or legal error. At best, Defendants gesture toward a general complaint with the Court’s application of the standard for constitutionally adequate notice. ECF No. 193 at 16.

In a strained effort to construct a meritorious appellate argument, Defendants begin by rewriting the Court’s factual findings, but without a single citation to the record. *See* ECF No. 193 at 16. For example, Defendants assert they “provide a written notice advising that Medicaid coverage is ending.” *Id.* Yet, the Court found the opposite, concluding that “the State’s eligibility findings are conveyed across multiple . . . sections such that the State’s ultimate termination decision . . . is not readily apparent,” and the notices leave recipients “guessing as to how to reconcile what appear to be contradictory determinations” of eligibility status. ECF No. 186 at 210. The Court also observed that, when asked at trial to interpret a notice, one of DCF’s most experienced witnesses testified she “would need to see non-public information in the case file to determine . . . whether the individual’s Medicaid was ending.” *Id.* at 215. Defendants point to nothing that would rebut these conclusions, let alone demonstrate clear error.

Defendants similarly claim, again without citation, that the notices identify “a

reason why” coverage is ending. *See* ECF No. 193 at 16. Yet, they admitted (and it is therefore undisputed) their notices do *not* provide specific, individualized reasons for the State’s action. *Compare* ECF No. 77, ¶ 73 *with* ECF No. 82, ¶ 73; *see also* ECF No. 186 at 228. Additionally, as the Court painstakingly detailed, the statements Defendants classify as “reasons” are not reasons at all but, instead, are mere conclusions. *See, e.g.*, ECF No. 186 at 211-212.

Defendants also assert, as they have many times before, that due process does not require them to provide specific reasons for individualized terminations from Medicaid. To support this claim, Defendants rely on *Garret v. Puett*, 707 F.2d 930 (6th Cir. 1983); *LeBeau v. Spirito*, 703 F.2d 639 (1st Cir. 1983); *Jordan v. Benefits Review Bd. of U.S. Dep’t of Labor*, 876 F.2d 1455 (11th Cir. 1983); and *Adams v. Harris*, 643 F.2d 995 (4th Cir. 1981).¹ But, in its order, the Court distinguishes each of these cases because they either involved (1) general, across-the board reductions mandated by a change in law (*Garrett* and *LeBeau*); or (2) notices regarding applications for benefits issued at later stages in the proceedings, such as upon reconsideration, when an initial written, detailed, individualized decision was previously provided *and* the adequacy of that

¹ Defendants also cite *Gaines v. Hadi*, No. 06-60129-CIV, 2006 WL 6035742 (S.D. Fla. Jan. 30, 2006) for support that standardized information in written notices comports with due process. This is an odd choice because *Gaines* found notices reducing Medicaid benefits sufficient precisely because they were “far more individualized and fact-laden than the stock computer-generated denial notices upheld by the *Adams* and *Jordan* courts . . . [and] allow Plaintiffs to identify factual errors in the Agency’s analysis . . . ” *Id.* at 18. Defendants, not the Court, are applying the wrong legal standard.

initial denial notice was not contested (*Adams* and *Jordan*). See ECF No. 186 at 215-17, 223-226. Defendants' motion does not explain why they take issue with this reasoning.

The closest Defendants come to identifying a specific argument they wish to raise on appeal is a single footnote, in which they complain the Court gave "insufficient weight" to "cases" regarding actual knowledge and the purported duty of inquiry on notice recipients to divine the reason for terminations. ECF No. 193 at 18. Yet, Defendants cite just one case, *Jordan*, which the Court already addressed head on. Although finding it factually and legally distinct (as discussed above), the Court nonetheless found it "helpful to compare the State's NOCA [notice of case action] to the notice evaluated in. . . *Jordan*. . . ." *Id.* at 215. In other words, the Court already did what Defendants ask: it applied the standard in *Jordan*. Even then, the Court found that "the NOCAs fall far short of the mark," because "[u]nlike *Jordan*," they "do not plainly and succinctly state the decision and reason . . . do not identify the requirements an enrollee must meet," and their "convoluted, vague, and confusing" construction stands "in stark contrast" to the "succinct checklist in *Jordan*." ECF No. 186 at 216-17. Notably, the Court also analyzed the NOCAs under cases Defendants have cited elsewhere, explaining that "the notices approved in *LeBeau* and *Garrett* are both far more detailed than the NOCAs at issue here." See ECF No. 186 at 224, n.76. Thus, Defendants are not likely to succeed on appeal because even under their desired legal standard the notices are inadequate.

Defendants also reiterate their longstanding position that the Court must factor in “the totality of available information, not just the information contained in the four corners of the notice.” ECF No. 193 at 17. First, the Court explained that Defendants’ cases conclude that accurate and available public information may be sufficient to describe the state’s available *remedies* (which are generalizable)—but not the *reasons* for a particular decision (which are inherently individualized). *See* ECF No. 186 at 236-37. Nevertheless, the Court applied Defendants’ desired standard and still found a violation because, as the Court extensively detailed, the information Defendants point to is neither available nor accurate. *See, e.g.*, ECF No. 186 at 232 (“ . . . [E]ven if other sources of information can constitute a reasonable means of notice in some circumstances, the evidence establishes that the State has not employed reasonable means here.”). For example, the Court concluded that “the hours and locations of the Family Resource Centers are so limited as to be impracticable,” and “most calls to the call center are blocked.” *Id.* at 233. After canvassing the available public materials, the Court also concluded “none of the publicly available resources fully and coherently explain how to calculate an enrollee’s [countable income] and apply it . . . as would be necessary to determine the accuracy of a finding that an enrollee is financially ineligible.” *Id.* at 236. Defendants ignore these factual findings.

In the end, disagreeing is not the same as disregarding. Without some express justification for why the Court missed the mark, Defendants do not raise *any*

appealable issue, let alone one on which they are substantially likely to prevail. *See Silva v. Ferriera dos Santos*, No. 1:22-CV-03371, 2023 WL 6193011, at *2 (N.D. Ga. Apr. 4, 2023) (“Beyond disagreeing with the undersigned’s rulings and weighing of the evidence . . . Respondent does not present any reasons why she is likely to succeed on appeal.”). Accordingly, Defendants’ motion should be denied on this prong alone.

B. Defendants have not demonstrated irreparable harm.

At the heart of Defendants’ motion is a complaint that complying with the injunction would be expensive. But having to “expend unrecoverable resources” is not *per se* irreparable harm. *See Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1327 (11th Cir. 2019). Indeed, the Eleventh Circuit has held that “that injury is not enough to overcome the . . . inability to show likelihood of success on the merits.” *Id.* That distinguishes *Friends of the Everglades*, which Defendants rely heavily upon. *See* ECF No. 193. In *Friends*, the Eleventh Circuit found the movant *highly* likely to succeed on appeal, noting that the district court “[i]nexplicably . . . does not mention the Supreme Court’s most recent decision about the statute lying at the heart of” that case. *Friends of the Everglades, Inc. v. Sec’y of United States Dep’t of Homeland Sec.*, No. 25-12873, 2025 WL 2598567, at *4 (11th Cir. Sept. 4, 2025). As detailed above, Defendants have not made any merits showing, let alone one that makes them highly likely to succeed.

Furthermore, in *Friends*, the appellate court identified no basis to dispute the

state's cost estimates.² *See generally id.* at *11. That stands in stark contrast to the evidence presented here, where Defendants' declarations are conclusory, vague, and speculative. As described below, the sparse record before the Court does not satisfy the heavy burden to demonstrate irreparable harm. *See HHS*, 19 F.4th at 1292 (affirming denial of stay based in part on conclusion that "affidavits predicting" future harms were "speculative" and "conclusory."); *Beame v. Friends of the Earth*, 434 U.S. 1310, 1313 (1977) (denying stay where affidavits "offered to indicate some adverse economic impact . . . contain little, if any, specific information as to the harm.").

1. Computer Costs

Defendants' description of the costs related to the computer changes is exceptionally sparse. Defendants assert it will cost \$116,686.64 to complete the work related to corrective notices for currently terminated individuals (824 hours, equaling \$141.61 per hour). ECF No. 193 at 9. They assert it will take another \$370,899.84 to modify the NOCAs for those currently enrolled (2,368 hours of work, equaling \$156.63 per hour). *Id.* at 6. Notably, Defendants have not presented documents or declarations from Deloitte describing the estimates. Nor have they provided any evidence describing what the actual changes are, what alternatives were considered,

² Moreover, unlike here, the costs to the state in *Friends* were not the appellate court's primary concern with respect to irreparable harm: rather, the court focused on the injunction's scope which intruded on both the state and federal government's broad discretion to pursue immigration enforcement efforts. *See* 2025 WL 2598567 at *10-11.

or what assumptions were made to produce the estimate, all of which impact the total cost. *See, e.g.* Trial Tr., Vol. 6 at 29:2-5, 57:2-9, 74:23-75:16, 83:19-84:4, 92:18-96:7.

Defendants' vague assertions leave many questions unanswered. For example, Defendants have not explained why there must be two separate sets of IT changes for each group in the class, when both must receive adequate notice with the requisite individualized information. They have not explained why the estimates appear to have different hourly costs. Nor have they explained why creating a new NOCA template (rather than revising the current templates) would not be less expensive. *Cf.* Kallumkal Dep. at 230:10-233:4 (Deloitte did not compare costs of creating a new template when making first estimate); Anderson Test., Tr. Vol. 4, ECF No. 164 at 154:11-23, 155:2-7 (DCF has created new templates in the past). As a result, on the current record, neither Plaintiffs nor the Court can evaluate whether the hour and cost estimates are inflated. *See Vasallo TV Grp., LLC v. Am.-CV Station Grp., Inc.*, No. 24-CV-23011, 2025 WL 856954, at *5 (S.D. Fla. Mar. 19, 2025) (finding assertions of irreparable harm speculative where movants "don't explain how or why all of that will happen").

In any event, even accepting these estimates at face value, the costs are substantially *less* than Defendants asserted at trial (*compare* 28,000 or 12,000 hours, *see* ECF No. 174, ¶¶ 141-160, *with* 3,200, *see* ECF No. 193 at 9) and make up an

exceedingly small fraction of Defendants' total budgets.³ Moreover, as the trial testimony established, computer changes like these receive 90% federal reimbursement, ECF No. 186 at 42, ¶ 101 (citing Latham Dep. at 12-13), reducing the cost to the state to less than \$50,000.⁴ Finally, it is not even clear DCF would have to expend any money to implement these IT changes. DCF already budgets 3,150 hours every quarter, without the need for additional funding or contract amendment. Kallumkal Test., Tr. Vol. 5, ECF No. 165 at 206:25-207:19. The total hours needed for both projects, 3,192, is only slightly above that quarterly amount. Defendants do not explain why those already-budgeted hours cannot be used for these changes. *Cf.* Latham Test., Trial Tr., Vol. 5, ECF No. 165 at 160:1-10 (noting that, with respect to allocating the quarterly hours, “[t]hings do change. We -- you know, obviously if things happen, we have to pivot. That's pretty common in IT.”).

2. Costs of Maintaining Coverage

Ultimately, Defendants' real complaint is the cost of reinstatement and pausing terminations. But the Court has already considered and rejected these very harms. ECF No. 186 at 247 (noting State's argument that the relief is “extraordinarily expensive” and length of reinstatement “could last for years”). Moreover, the size of

³ For Fiscal Year 2024-25, AHCA's total budget was \$46.5 billion, with \$33.4 billion allocated to the Medicaid program. *See* Florida Policy Institute, Florida FY 2024-25 Budget Summary: Health and Human Services (Oct. 18, 2024), <https://www.floridapolicy.org/posts/florida-fy-2024-25-budget-summary-health-and-human-services>.

⁴ Calculated by adding $(\$370,899.84 + \$116,686.64) \times 0.1$.

those costs turns heavily on how quickly and diligently DCF works to implement the required changes—factors squarely within Defendants’ control. *See Banks v. Trainor*, 525 F.2d 837, 842-43 (7th Cir. 1975) (rejecting concerns the state is “presently forced to pay approximately 1.6 million dollars per month in food stamp benefits in excess of the amount to which food stamp recipients in Illinois are entitled” because the cost could be “speedily remedied by their compliance with the modified injunction”).

Despite Defendants’ complaints, the record before the Court suggests the time needed to implement the changes should not be so long. Defendants admit they could complete the IT work to update the notices and batch and mail them to the currently terminated class members by April 29, 2026. Under that timeline, the length of reinstatement would be mere weeks for individuals who decide not to request a fair hearing following receipt of corrected notice. Even accepting that two separate IT processes are needed, Defendants have not explained why DCF could not complete analogous changes to NOCAs for individuals whose Medicaid will continue until those fixes are made. Furthermore, Defendants have declined to convert the 2,638 hours estimate into calendar time and thus offer the Court nothing but mere speculation about how long a pause would need to last.

Moreover, given that 2,638 hours is less than the 3,150 hours that Deloitte is paid to provide each quarter under the current contract, it is reasonable to assume those changes could be implemented in roughly three months, with diligent effort. *See*

also, Kallumkal Test., Tr. Vol. 6, ECF No. 166 at 75-76 (change requiring 500 hours was completed in approximately one month). Where a Defendant has not “explained how” relevant data “is consistent with its representations,” the court “will not find irreparable harm based on mere conjecture.” *Fla. v. United States*, No. 23-11528, 2023 WL 3813774, at *2 (11th Cir. June 5, 2023). In short, Defendants “catastrophic predictions” about sprawling timelines for completing the necessary computer changes are unsupported on the record. *Id.* (noting that the “claims of irreparable injury ring somewhat hollow on this record, considering [movant’s] track record of overstating similar threats in the underlying proceedings.”).

True, Defendants offer additional hurdles beyond the IT work that *might* make the process take longer—such as obtaining additional funding and seeking federal approval. But these assertions cannot justify a stay. First, the Court already heard testimony about these processes and considered them when issuing the injunction. *See* ECF No. 186 at 189 (citing Latham Test., Tr. Vol. 5 at 160-162). Repeating that testimony does not warrant a different outcome now.

Second, Defendants offer no specifics as to how long they expect these processes to take, or whether there are any emergency or expedited processes available to them.⁵

⁵ Notably, the governing regulations regarding the IAPDU indicate that the entire APD is “a relatively brief document, usually not more than 6-10 pages.” 45 C.F.R. § 95.610. CMS guidance also indicates “CMS estimates that it will take no more than 16 hours . . . for a business operations specialist to complete and submit the completed Implementation APD

Further, the record shows that DCF has managed to make numerous other changes to the NOCAs within reasonable timeframes during the pendency of the case. *See* ECF No. 186 at 189, ¶¶ 572-73 (describing multiple changes). And the April 29th timeline Defendants present presumably includes time to obtain the funding and approvals Defendants say are necessary, further reinforcing these are not cumbersome processes. At bottom, the Court is left with Defendants' speculation about the possibility that fixes might drag out over many months. But "the possibility of an irreparable injury is not enough." *HHS*, 19 F.4th at 1291.

Furthermore, the accuracy of Defendants' cost estimate as to the monthly costs of maintaining coverage for class members is also debatable. This is because they have, since the case's outset, steadily increased. At the beginning of the case, Defendants estimated the monthly cost of reinstatement was \$225.15 per person. ECF No. 76-2, ¶ 3. At trial, the estimate grew to \$313.23. *Cooper Test.*, Tr. Vol. 3, ECF No. 163, 189:1-4). To explain this number, Defendants testified they averaged the amount spent on an individual beneficiary in a six-month period across fee-for-service (Medicaid services paid directly by the state) and capitated payment rates (a bundled rate paid to a managed care plan to cover all services used). *See id.* at 186:15-188:25.

template and supporting documentation to CMS." *See* Ctrs. for Medicare & Medicaid Servs., "Supporting Statement – Part A, Medicaid Eligibility and Enrollment (EE), Implementation Advanced Planning Document (IAPD) Template," (Sept. 3, 2024), *available at* <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof-1995/pralisting-items/cms-10536>.

Now, post-trial, Defendants once again increase their estimate, this time to \$365.76; but also alter the formula used to arrive at the increase. ECF No. 193, Ex. D. ¶¶ 2-4. Rather than average fee-for-service and capitated payments as they did at trial, they now rely only on capitated payment costs. *Id.* And, while they excluded children with complex medical needs from the new estimate because those children represent a higher rate, they do not mention whether they exclude other expensive populations, like those in long term care. *Id.*⁶ Because of the constantly shifting nature of the evidence, the newest of which Plaintiffs are unable to probe through discovery, Defendants' estimated costs for maintaining coverage are simply unreliable.

3. Defendants have not met their obligation to mitigate costs.

Harm cannot be considered irreparable if the party asserting the harm could have avoided it. *See Larios v. Cox*, 305 F. Supp. 2d 1335, 1341 (N.D. Ga. 2004) (“While it may be inconvenient for the state to comply with the court's order, the deficiencies in the current plans were entirely the result of the State[’s] own actions.”); *see also Long v. Robinson*, 432 F.2d 977, 981 (4th Cir. 1970) (Winter, J., sitting as a single judge) (“It would seem elementary that a party may not claim equity in his own defaults.”).

While Defendants say they have been working diligently since the Court entered

⁶ *See* Agency for Health Care Admin., Statewide Medicaid Managed Care (SMMC), Managed Medical Assistance (MMA) Capitation Rates, Feb. 1, 2025 through Sept. 30, 2025, <https://ahca.myflorida.com/content/download/26107/file/MMA%20Final%20Base%20Rates%20RY%2024-25%20Post%20Update.pdf>.

final judgment on January 6th, the record shows otherwise. Defendants did not pause terminations until 45 days after being ordered to do so, and that assumes that the February 20th prediction described in their motion came to fruition. *Compare* ECF No. 193 at 4 *with* ECF No. 186 at 271, ¶ 5. As a result, Defendants now need to reinstate approximately 45,000 people who, in violation of the Court’s order, were terminated in January and February. This exacerbates costs.

Further, Defendants do not say whether they have begun the state budget approval process, only that it must be done at some indeterminate date. ECF No. 193 at 6. By contrast, at her recent confirmation hearing, when asked whether the State would be able to comply with the Court’s order, Secretary Harris replied “I’d really like to consult with DCF on that . . . it’s also kind of sort of in the middle of litigation . . . ”⁷ The official then goes on to ask Secretary Harris to research the question and update the entire body about whether compliance with the Court’s order will be possible in light of the “timing,” so the legislative body can “do what they do” to help. If, as Defendants so forcefully claim, time is of the essence, then they can accept this invitation and request the legislature’s assistance to expedite the proposal.

Similarly, Defendants do not claim to have even started the federal approval process for the IT changes needed to fix the notices even though, as described above,

⁷ The Florida Channel, Senate Committee on Health Policy (Feb. 11, 2026), available at: <https://www.flsenate.gov/media/VideoPlayer/6154> (32m02s to 34m30s).

CMS guidance suggests that submission of that request takes no more than 16 hours to complete.⁸ Of course, Defendants could have begun this process years ago—starting in, at least, 2018 when they learned their Medicaid notices “generate confusion” among beneficiaries. ECF No. 186 at 7-9. Or perhaps when, over two years ago, the Court admonished that it “was going to be hard pressed to conclude anything other than the notices are bad and need to be fixed.” ECF No. 64, 4:24-5:2. Instead, according to Defendants, they did nothing to prepare for this approval. Defendants’ delay calls their sincerity about these estimates into serious question.

Finally, the timing of Defendants’ motion itself further undermines their assertions of irreparable injury. *See Beame*, 434 U.S. at 1313 (“The applicants’ delay in . . . seeking a stay vitiates much of the force of their allegations of irreparable harm.”). Defendants waited over six weeks to seek this stay. “Were the injury . . . as severe as [Defendants] now claim, one would think that they would have filed their” motion “with dispatch, so that this matter could have been resolved,” with sufficient time for a reasoned ruling. *Id.* Defendants provide no justification for this behavior. Thus, the Court should view their request exactly for what it is, an avoidable delay that does not justify a finding of irreparable harm.

⁸ *Supra* n. 6.

4. Defendants’ claim that the injunction will render them unable to comply with the Medicaid Act is not irreparable harm.

Finally, Defendants repeat their “self-defeating” argument, ECF No. 186 at 252, that they face irreparable harm from providing Medicaid benefits to individuals they have determined ineligible until they can provide adequate notice. ECF No. 193 at 19-21. But as the Court explained, “allowing the State to continue terminating benefits in violation of the law undermines, rather than supports, the Medicaid Act.” ECF No. 186 at 252; *see also Lee*, 915 F.3d at 1327 (holding that “the public interest is served when constitutional rights are protected”). Contrary to Defendants’ assertions, federal Medicaid regulations and administrative guidance further support that conclusion. The regulations explicitly provide federal funding for Medicaid coverage provided pursuant to a court order. *See* 42 C.F.R. §§ 431.250(b); *see also id.* § 431.231(c)(1) (permitting reinstatement when action is taken without advance notice). Additionally, in other circumstances, CMS has directed states to pause terminations and reinstate coverage for all individuals affected by systemic errors until they modify their eligibility systems. *See* CMS, Dear State Medicaid Director Letter (Aug. 30, 2023), <https://www.medicaid.gov/resources-for-states/downloads/state-ltr-ensuring-renewal-compliance.pdf>. The very existence of these provisions demonstrates that the injunction’s requirements conform with the Medicaid Act.

C. A stay will irreparably harm the class and is not in the public interest.

The third and fourth factors—harm to the non-movant and where the public

interest lies—merge when the government is a party. *HHS*, 19 F.4th at 1293. These factors strongly counsel against a stay. Defendants entirely ignore the ongoing, irreparable harm the Court found class members have and will continue to experience while waiting for Defendants to comply with the injunction. Further delaying Defendants’ compliance with the law will cause the class profound harm—confusion, stress, and erroneous loss of Medicaid coverage—that the injunction is intended to remedy and, therefore, goes against the public interest.

Moreover, the risks of erroneous terminations of essential health coverage remain high and unmitigated. As the Court already concluded there are “ample opportunities for errors—both human and machine—during the eligibility determination process,” which when coupled with the flawed notices, creates a real and immediate risk the class members will face erroneous termination of their Medicaid benefits. ECF No. 186 at 244. Indeed, after reviewing the evidence, the Court was “convinced that significant risk of error exists throughout the [eligibility determination] process” which “undoubtedly affected numerous class members.” *Id.* at 254 n. 89. The Court documented errors causing premature termination of continuous pregnancy and postpartum coverage, *id.* at 244 n. 85, errors in failing to deduct pre-tax income, *Id.* at 30, ¶ 59, errors in computing the SFU when household members receive SSI benefits, *id.* at 244 n. 85, and errors when caseworkers relied on outdated data or overlooked changes in income reported by enrollees. *Id.* at 31, ¶ 64;

32, ¶ 65. Defendants do not attempt to assure the Court that any of these errors have been addressed or that the ongoing harm to the class has been mitigated in any way.

Thus, when balancing the equities in this case, the relevant question is not *whether* there are any costs to Defendants, but *who* bears the costs. If a stay is granted, the State will be permitted to keep shifting this burden onto low-income Medicaid enrollees whom the Court has concluded are among the State's most vulnerable citizens. ECF No. 186 at 267. Given these circumstances, the State, not Medicaid enrollees, should bear the burden of the State's inaction.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendants' Motion for a Stay Pending Appeal.

Dated: March 2, 2026

Respectfully Submitted,

/s/ Sarah Grusin

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