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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DAVID L. BOHN, on behalf of himself, and all others similarly situated,

Plaintiffs,

vs.

LILLIAN B. KOLLER, in her

CIVIL NO. CV10 00680 DAE LEK

PLAINTIFF'S MOTION FOR CLASS CERTIFICATION; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF DAVID L. BOHN;

(continued on next page)

official capacity as Director of
the Department of Human
Services, State of Hawai`i,

Defendant.

**DECLARATION OF M. VICTOR
GEMINIANI; EXHIBITS "A" -
"D"**

PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

Plaintiff David L. Bohn, individually and on behalf of all persons similarly situated, moves for an order certifying the following class under Federal Rule of Civil Procedure ("FRCP") 23.

The Class:

All Hawai`i residents who (1) applied for Supplemental Nutrition Assistance Program ("SNAP") benefits in Hawai`i after November 2008 and who did not receive benefits in a timely manner, or (2) are seeking, or will in the future seek, SNAP benefits in Hawai`i.

Plaintiff also requests that his counsel be appointed class counsel under FRCP 23(g).

This Motion is brought under FRCP 7(b) and 23 and the Local Rules for the District Court for the District of Hawai`i 7.2 and 7.3 and is supported by the attached memorandum, declarations,

the records and file in this case, and any additional matters that may be presented at or before hearing.

DATED: Honolulu, Hawai'i, November 17, 2010.



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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DAVID L. BOHN, on behalf of
himself, and all others similarly
situated,

Plaintiffs,

vs.

LILLIAN B. KOLLER, in her
official capacity as Director of
the Department of Human
Services, State of Hawai`i,

Defendant.

CIVIL NO.

**MEMORANDUM IN SUPPORT
OF MOTION**

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MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

Plaintiff DAVID L. BOHN ("Plaintiff") brings this action on behalf of himself and a class of needy Hawai`i individuals and families to challenge Defendant Koller's customs, policies, patterns, and practices of failing to process applications for and provide Supplemental Nutrition Assistance Program ("SNAP") benefits in a timely manner, in violation of federal law.

Federal law governing the SNAP program requires that SNAP applications be processed, with benefits provided to eligible households, within 30 days of their application date. 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2 (a), (g)(1) & (3). Households with very low income and liquid resources, households whose housing costs exceed the sum of their income and liquid resources, and certain migrant and seasonal worker households are entitled to "expedited issuance" of SNAP benefits, with benefits provided to eligible households within 7 days of application. 7 U.S.C. § 2020 (e)(9).

Pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure ("FRCP"), Plaintiff asks this Court to certify a class consisting of the following members:

All Hawai'i residents who (1) applied for Supplemental Nutrition Assistance Program ("SNAP") benefits in Hawai'i after November 2008 and who did not receive benefits in a timely manner, or (2) are seeking, or will in the future seek, SNAP benefits in Hawai'i.

II. BACKGROUND

Defendant's failure to comply with federal law has and will continue to cause Plaintiff severe hardship. Plaintiff is 68 years old and is a disabled veteran living by himself in a senior housing project in Wahiawa. Declaration of David L. Bohn ("Bohn Decl.") ¶ 2. Plaintiff receives \$637 monthly from the Veterans Administration ("VA") as compensation for injuries sustained while serving in the military in Vietnam. *Id.* ¶ 3. He has a current disability rating from the VA of 50%. *Id.* Plaintiff also receives \$585 each month from the Social Security Administration ("SSA") in retirement benefits. *Id.* Plaintiff struggles on his fixed monthly income of \$1222.00 and has little of this money left to purchase food after paying rent, bills, utilities and medical insurance. *Id.* ¶ 14.

After struggling to provide for his nutritional needs, Plaintiff visited The Hawai'i Food Bank and was issued \$50 worth of

vouchers to purchase food at participating farmers' markets as part of the Senior Farmers' Market Nutrition Program. Plaintiff has exhausted these vouchers and is not eligible to receive others to support his nutritional needs, as the program ended on October 31, 2010.

On September 29, 2010 Plaintiff applied for SNAP benefits by downloading an application from the internet and mailing in the completed application to DHS. *Id.* ¶ 4; Exh. "A" to the Bohn Decl. From the date of his application, Plaintiff waited almost two weeks before receiving any correspondence from DHS. On or about October 14, 2010 Plaintiff received a letter from DHS scheduling an appointment at 11:00 a.m. on October 25, 2010 in the DHS office located in Kapolei. Bohn Decl. ¶ 5. The letter informed Plaintiff that if he was over 60 years old or disabled, DHS would conduct a telephone interview. *Id.* ¶ 6. The letter Plaintiff received from DHS identified Mr. K. Mina as the caseworker who was scheduled to conduct Plaintiff's office interview. *Id.* ¶ 9. The letter also included Mr. Mina's telephone number. *Id.* Plaintiff would face difficulties traveling to an office appointment in Kapolei from his residence in Wahiawa. *Id.* ¶ 7. Plaintiff has no other form

of transportation except public transportation. *Id.* A trip by bus to the DHS office in Kapolei would take approximately 3 hours each way from Wahiawa. *Id.* Having previously received food stamps in May and June of 2010, Plaintiff believed DHS had all of the information needed to process his application in their system. *Id.* ¶ 8.

On or about October 16, 2010, shortly after receiving the letter from DHS, Plaintiff wrote to Mr. Mina and requested a telephone interview because of the difficulty in getting to the DHS office in Kapolei. *Id.* ¶ 9. As indicated in the letter from DHS, Plaintiff's age and disability qualified him for such accommodation. Plaintiff did not receive a response to his letter and called the DHS office every day from on or about October 17, 2010 until October 29, 2010. *Id.* Each time he called, Plaintiff was unable to reach the caseworker Mr. Mina, and left a message on Mr. Mina's voice mail system. *Id.* Each of these messages requested that a telephone interview be conducted instead of an interview in the Kapolei DHS office. *Id.* During this period, Mr. Mina left two messages on Plaintiff's recording machine, both of which were left on the day

before a holiday and a furlough day when the DHS offices were scheduled to be closed. *Id.*

On or about October 29, 2010, Plaintiff mailed a letter to the supervisor of the Kapolei DHS office again requesting a telephone interview and describing his repeated attempts to contact Mr. Mina. *Id.* ¶ 11. On November 3, 2010, Plaintiff received a phone message on his answering machine that a DHS supervisor had called and requested that he contact the DHS office. *Id.* Plaintiff contacted the DHS office using the number provided by DHS that same day, and again on November 4 and 5, 2010. *Id.* Plaintiff was unable to reach a live person at the number he was directed to call, instead reaching a recording that would not let him leave a message. *Id.*

On November 5, 2010, Plaintiff received a letter from DHS that had been mailed on November 3, 2010. *Id.* ¶ 12; Exh. "B" to the Bohn Decl. The letter informed Plaintiff that he would have to contact his DHS worker by October 29, 2010 (five days before the letter was mailed) to schedule another appointment for an interview or his application would be denied. *Id.* The letter further informed

Plaintiff that he would have to file a new application for food stamps if the deadline for contacting his worker had already passed. *Id.*

On November 12, 2010, Plaintiff was finally interviewed over the telephone for his food stamps, and he was asked to provide additional documents to the caseworker. *Id.* ¶ 13. Plaintiff was also told to pick up an Electronic Benefits Transfer ("EBT") card at the Wahiawa office, but was given no assurance as to when his case would be processed or when he would receive food stamps.

Plaintiff applied for SNAP benefits to help provide for his nutritional needs. *Id.* ¶ 14. The additional assistance per month to spend on food would have made a marked difference in Plaintiff's ability to meet these needs. *Id.* Instead, he waited for an update on the status of his application for more than 45 days.

Delays are widespread in Hawai'i's administration of SNAP. State data for the months October 2009 through May 2010 show that the percent of all SNAP application determinations that were late each month grew from 16.3% to 22.8%. See Declaration of Victor Geminiani ("Geminiani Decl."); Exh. "C" to the Geminiani Decl.

III. ARGUMENT

The court may certify a proposed class where that class meets the four requirements of FRCP 23(a) and fits within one of the subcategories of FRCP 23(b). *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998) (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997)); *Amoné v. Aveiro*, 226 F.R.D. 667, 683 (D. Haw. 2005). Plaintiff satisfies the four requirements of FRCP 23(a) and FRCP 23(b)(2), and this Court should therefore certify the proposed class.

A. **The Proposed Class Meets the Requirements of Rule 23(a)**

To determine whether a proposed class should be certified, a court first looks to FRCP 23(a), which contains the four requirements that must be satisfied for a lawsuit to proceed as a class action. *Gen'l Tel. Co. of the Sw. v. Falcon*, 457 U.S. 147, 161 (1982); *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001); *Amoné*, 226 F.R.D. at 682. The court analyzes whether: (1) the class is so numerous that joinder of all members of the class is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are

typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. The proposed class in this case meets all four elements of FRCP 23(a).

1. The Class is so Numerous that Joinder of All Members is Impracticable

The numerosity requirement of FRCP 23(a)(1) is met if plaintiffs demonstrate the impracticability of joinder. *Dukes v. Wal-Mart Stores, Inc.*, 603 F.3d 571, 599 (9th Cir. 2010).

Impracticability, rather than impossibility, refers to the "'difficulty or inconvenience of joining all members of the class.'" *Amone*, 226 F.R.D. at 683 (quoting *Harris v. Palm Springs Alpine Estates, Inc.*, 329 F.2d 909, 913-14 (9th Cir. 1964)). The court may certify a class where the final number of plaintiffs is unknown. *Id.* at 683. The court should look to factors beyond sheer numbers, including "judicial economy arising from avoidance of a multiplicity of actions, geographic dispersment of class members . . . financial resources of class members, and requests for prospective injunctive relief which would involve future class members." *Amone*, 226 F.R.D. at 683 (internal citation omitted). Moreover, this Court has found

joinder impracticable where "[t]he proposed class is comprised of individuals whose financial circumstances may prevent them from pursuing individual litigation." *Amone*, 226 F.R.D. at 684.

The proposed class satisfies the numerosity requirement because it includes thousands of individuals. Thousands of households apply for SNAP benefits each month. For example, state data report that in May 2010 Defendant received 4,695 SNAP applications, and in April 2010, received 4,762 SNAP applications. Exh. "C".

Beyond sheer numbers, the class satisfies other aspects of the impracticability analysis. First, the members are dispersed throughout the State. Additionally, a class action here serves judicial economy. The courts will be unnecessarily burdened if individuals are forced to bring suit on their own challenging defendant's pattern and practice of failing to timely process applications for and provide SNAP benefits. Similar to the plaintiff class in *Amone*, many potential class members here who suffer harm as a result of Defendant's pattern and practice of delay cannot afford or otherwise secure legal representation. Without class certification, these individuals will continue to suffer without

redress. Class certification will maximize the available legal resources and provide uniform redress for common grievances against defendant, which is appropriate in this case.

2. There are Questions of Law and Fact Common to the Plaintiff Class

Plaintiff meets the commonality requirement of FRCP 23(a)(2) where there is a question of law or fact common to the class. FRCP 23(a)(2) is "construed permissively. All questions of fact and law need not be common to satisfy the rule. The existence of shared legal issues with divergent factual predicates is sufficient." *Dukes*, 603 F.3d at 599 (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998)). The test is " 'qualitative rather than quantitative' – one significant issue common to the class may be sufficient to warrant certification." *Id.* Moreover, the Ninth Circuit has held "in a civil-rights suit, [] commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all of the putative class members." *Armstrong*, 275 F.3d at 868 (citing *LaDuke v. Nelson*, 762 F.2d 1318, 1332 (1985)). This Court has found that "class suits for declaratory or injunctive relief, 'by their very nature often

present common questions satisfying Rule 23(a)(2).' " *Anone*, 226 F.R.D. at 684 (quoting *Daly v. Harris*, 209 F.R.D. 180, 186 (D. Haw. 2002)).

The central question of law and fact common to all members of the class is whether Defendant violated (and continues to violate) the rights of class members under federal law and implementing regulations by failing to process SNAP applications and provide appropriate benefits to eligible applicants within the federally mandated time frame. Similar to *LaDuke* and *Armstrong*, Plaintiff here seeks to redress the State's systematic failures to comply with federal law and implementing regulations, and as such, shares questions of law or fact with the putative class. Moreover, the common questions in this case are central to the case; therefore, resolving them will most certainly advance the litigation. Accordingly, the commonality requirement is satisfied in this case.

3. Named Plaintiff's Claims are Typical of the Claims of the Plaintiff Class

Plaintiff satisfies the typicality prong of the FRCP 23(a)(3) analysis, which requires the claims or defenses of the representative

parties to be typical of the class' claims and defenses. This requirement "serves to 'assure that the interest of the named representative aligns with the interests of the class.' " *Amone*, 226 F.R.D. at 685 (quoting *Hanon v. DataProducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992)). This too is a permissive standard and requires that " 'representative claims . . . are reasonably coextensive with those of absent class members; they need not be substantially identical.' " *Dukes*, 603 F.3d at 613 (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)); *Amone*, 226 F.R.D. at 685.

Plaintiff meets the typicality requirement here because his claims and those of the class arise from the same unlawful conduct. Along with members of the class, Plaintiffs has been harmed by Defendant's failure to timely process applications and provide SNAP benefits in violation of federal law. Further, the legal theories underlying Plaintiff's claim are identical to those for the proposed class. Similar to the plaintiff class in *Amone*, Plaintiff and the proposed class here suffered and will continue to suffer identical injuries due to Defendant's conduct. This Court found typicality satisfied in *Amone* where the plaintiffs all had "the same

claim based on the applicable statutes and regulations," and the defendant's wrongdoing "[was] common to all prospective class members." *Anone*, 226 F.R.D. at 686. Moreover, Plaintiff's position in this case is not antagonistic to the interests of the proposed class – by advancing his own claims, Plaintiff will advance the class' claims. Therefore, Plaintiff satisfies the typicality requirement.

4. Plaintiff will Fairly and Adequately Protect the Interests of the Class

To demonstrate adequacy of representation, Plaintiff must show that he "will fairly and adequately protect the interests of the class." FRCP 23(a)(4). Determining adequacy involves analyzing whether the named plaintiff(s) (1) "have any conflicts of interest with other class members," and (2) will "prosecute the action vigorously on behalf of the class" through qualified counsel. *Anone*, 226 F.R.D. at 686 (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)). Both criteria are met here.

First, the interests of Plaintiff and the members of the class are entirely coextensive. The legal claims of Plaintiff arise from the same illegal conduct by Defendant that applies to the entire class. As such, the proposed class representative is

sufficiently interested in the outcome of the case to vigorously prosecute the class claims. Plaintiff seeks declaratory and injunctive relief to ensure that Defendant processes all applications for SNAP benefits, and provides the appropriate benefits to eligible persons, within the time frames required by law. This request does not present conflicts between class members and Plaintiff because Plaintiff lacks any interests adverse or antagonistic to the class members.

Second, Lawyers for Equal Justice ("LEJ") and the National Center for Law and Economic Justice ("NCLEJ") are experienced in class action litigation in federal and state courts – including matters relating to SNAP, Medicaid, and other public benefits – and will prosecute this action vigorously and competently. Alston, Hunt, Floyd & Ing ("AHFI") has litigated numerous individual and class actions involving federal regulatory and statutory schemes, and is undoubtedly qualified and capable to conduct the litigation. AHFI and LEJ were deemed adequate representatives in *Amone, Waters v. Housing and Community Development Corp. of Hawai'i*, Civil No. 05-1-0815-05 EEH, *Blake v. Nishimura*, Civil No. 08-00281 SPK/LEK, and *Kaleuati v. Tondo*, CV

No. 07-00504 HG/LEK. Geminiani Decl. ¶ 25; *Anone* at 686.

Moreover, LEJ and AHFI have vast experience practicing in this district. Accordingly, Plaintiff will fairly and adequately protect the interests of the class in this action; thus, Plaintiff meets the requirements of Rule 23(a)(4).

B. The Proposed Class Meets the Requirements of Rule 23(b)(2)

Where a proposed class meets the requirements of FRCP 23(a), the class may be certified if it satisfies one of the conditions set forth in FRCP 23(b). FRCP 23(b)(2) permits class certification where "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief . . . is appropriate respecting the class as a whole." *Dukes*, 603 F.3d at 615 (quoting FRCP 23(b)(2)). Certification under FRCP 23(b)(2) is appropriate where "the primary relief sought is declaratory or injunctive." *Anone*, 226 F.R.D. at 686. Where the "primary purpose of [a] suit is to obtain compliance with the statutes and regulations . . . the class is appropriate for certification" under Rule 23(b)(2). *Id.* at 687.

The proposed class meets this standard. The legal mandates Defendant has violated by her failure to process SNAP applications and provide SNAP benefits within the time frames required by law are applicable to all class members. Plaintiff seeks class-wide permanent declaratory and injunctive relief to force Defendant to comply with federal statutes and implementing regulations requiring timely processing of applications and issuance of benefits. Any order entered by this Court would, by its terms, inure to the benefit of all members of the plaintiff class. Certification is therefore appropriate under Rule 23(b)(2).

IV. CONCLUSION

The proposed class satisfies the requirements of FRCP 23(a) and (b) for certification. Therefore, Plaintiff respectfully requests that the Court enter an order:

- A. Certifying this case to proceed on behalf of a class defined as: All Hawai`i residents who (1) applied for Supplemental Nutrition Assistance Program ("SNAP") benefits in Hawai`i after November 2008 and who did not receive benefits in a timely

manner, or (2) are seeking, or will in the future seek, SNAP benefits in Hawai`i.

- B. Appointing LEJ, NCLEJ, and AHFI as counsel for the class.
- C. Granting such other and further relief as the Court deems just and proper.

DATED: Honolulu, Hawai`i, November 17, 2010.



VICTOR GEMINIANI
MARC COHAN
MARY R. MANNIX
PETRA T. TASHEFF
PAUL ALSTON
J. BLAINE ROGERS

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
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DAVID L. BOHN, on behalf of
himself, and all others similarly
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Plaintiffs,

vs.

LILLIAN B. KOLLER, in her
official capacity as Secretary of
the Department of Human
Services for the State of Hawai'i,

Defendant.

CIVIL NO.

**DECLARATION OF M. VICTOR
GEMINIANI**

DECLARATION OF M. VICTOR GEMINIANI

M. Victor Geminiani, Esq. subscribes as true under
penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney admitted to practice in the State of
Hawai'i. I am Executive Director of Lawyers for Equal Justice
("LEJ") and am one of the attorneys for Plaintiff and the proposed
class. I am fully familiar with the facts herein.

2. This action is brought pursuant to 42 U.S.C. § 1983 on behalf of Plaintiff and a proposed class of needy families and individuals in Hawai`i to challenge Defendant's policies and practices of failing to timely process Supplemental Nutrition Assistance Program ("SNAP") applications and issue SNAP benefits in violation of federal law.

I. BACKGROUND

3. Hawai`i participates in SNAP, formerly known as the Food Stamp Program. 7 U.S.C. § 2011 et seq. SNAP provides fully federally-funded benefits to eligible low-income households to help them purchase food. 7 U.S.C. § 2013. The federal government reimburses the state for 50% of the cost of administering the program. 7 U.S.C. § 2025(a).

4. The Department of Human Services ("DHS") is the State agency responsible for administering SNAP in Hawai`i. Haw. Rev. Stat. § 346-51.

5. To be eligible for SNAP benefits, a household's monthly net income must be below the federal poverty line, and its available resources may not exceed \$2,000 (or, where a household

includes a member 60 years of age or older, \$3,000). 7 U.S.C. §§ 2014(c), (g).

6. Under the Food and Nutrition Act of 2008, households must be permitted to file a SNAP application on the first day that they contact the local social services office. 7 U.S.C. § 2020 (e)(2)(B)(iii); 7 C.F.R. §§ 273.2(c)(1), (c)(2)(i).

7. The State agency is required to "encourage" households to file applications on the same day they contact the office. 7 C.F.R. § 273.2(c)(2)(i).

8. The application filed on day one by an individual or household seeking to apply for SNAP benefits need only include the applicant's name, address, and signature. 7 C.F.R. § 273.2(c)(1).

9. If an individual or household seeks to apply jointly for cash assistance and SNAP benefits, delays related to processing of the application for cash assistance cannot result in any delay in the processing of the SNAP application. 7 U.S.C. §§ 2014(b), 2020(e)(3), (i)(2); 7 C.F.R. §§ 273.2(g)(1), (j)(1)(iii).

10. If the cash assistance application is denied or withdrawn, the applicant can not be required to submit a new SNAP

application. 7 U.S.C. §§ 2014(b), 2020(e)(3), (i)(2); 7 C.F.R. § 273.2(j)(1)(v).

11. DHS must provide ongoing SNAP benefits to eligible applicants no later than 30 days after date of application. 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a), (g)(1).

12. Expedited issuance of SNAP benefits is generally available to households with very low income and liquid resources, households whose housing costs exceed the sum of their income and liquid resources, and certain migrant and seasonal worker households. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i)(1).

13. DHS must affirmatively identify households eligible for expedited service at the time the household requests assistance. For example, a receptionist, volunteer, or other employee shall be responsible for screening applications as they are filed or as individuals come in to apply. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i)(2).

14. Under federal law, SNAP benefits must be provided to households entitled to expedited processing not later than the seventh day following the date an application is filed. 7 U.S.C. § 2020(e)(9)(A); 7 C.F.R. § 273.2(i)(3)(i).

II. DEFENDANT'S DATA SHOW DELAYS IN PROCESSING SNAP APPLICATIONS

15. Data from DHS, submitted to the State legislature, shows a persistent and growing pattern and practice of untimely processing of SNAP applications. DHS has reported its monthly performance in timely processing SNAP applications on documents entitled "Application Timeliness (FFY 2010).xls" and "Application Timeliness (FFY 2009).xls," true and correct copies of which are collectively attached as Exhibit "C". These documents contain, *inter alia*, statewide data on the total of all SNAP application dispositions (columns headed "All Dispositions"), including the number of timely dispositions and the percent of all dispositions that were timely, and data regarding untimely dispositions. They also contain statewide data on the total of SNAP Expedited Dispositions (columns headed "Expedited Dispositions"), including the number of timely expedited dispositions and the percent of all expedited dispositions that are timely, and data on untimely dispositions.

16. Columns A and B in the chart below present data for each month on State performance regarding all SNAP dispositions reported on the State Summary page of "Application

Timeliness (FFY 2010).xls" for the relevant month. Column A presents the statewide total number of all SNAP application dispositions. Column B presents the number of all SNAP application dispositions that are timely. Column C presents the number of all SNAP dispositions that are untimely as determined by subtracting the number of timely dispositions (Column B) from the total number of dispositions (Column A). Column D presents the overall percent of untimely dispositions determined by dividing the number of late dispositions (Column C) by the number of total dispositions (Column A).

Number and Percent of Untimely SNAP Application Determinations

	A	B	C	D
Month	Total #	# Timely	# Late	% Late
October 2009	5,045	4,224	821	16.3
November 2009	4,917	3,940	977	19.9
December 2009	5,181	4,172	1009	19.5
January 2010	4,448	3,569	879	19.5
February 2010	4,519	3,593	926	20.5
March 2010	5,158	4,021	1,137	22
April 2010	4,866	3,843	1,023	21
May 2010	4,905	3,789	1,116	22.8

17. Columns A and B in the chart below present data for each month on State performance regarding SNAP expedited application dispositions reported on the State Summary page of state reports "Application Timeliness (FFY 2010).xls" and "Application Timeliness (FFY 2009).xls" for the relevant month. Column A presents the statewide total number of all SNAP expedited application dispositions. Column B presents the number of all SNAP expedited application dispositions that are timely. Column C presents the number of all SNAP expedited dispositions that are untimely as determined by subtracting the number of timely expedited dispositions (Column B) from the total number of expedited dispositions (Column A). Column D presents the overall percent of untimely expedited dispositions determined by dividing the number of late expedited dispositions (Column C) by the total number of expedited dispositions (Column A).

Number and Percent of Untimely SNAP Expedited Application Determinations

	A	B	C	D
Month	Total #	# Timely	# Late	% Late
July 2009	1,699	1,422	277	16.3
August 2009	1,630	1,333	297	18.2
September 2009	1,737	1,382	355	20.4
October 2009	1,553	1,209	344	22.2
November 2009	1,515	1,071	444	29.3
December 2009	1,542	1,130	412	26.7
January 2010	1,390	1,041	349	25.1
February 2010	1,346	912	434	32.2
March 2010	1,587	1,059	528	33.3
April 2010	1,503	1,016	487	32.4
May 2010	1,462	1,002	460	31.5

18. Defendant's data in the documents titled

"Application Timeliness (FFY 2010).xls" also reflects some internal calculation for allocating fault in delay between Defendant (referred to as "AG" in Columns headed "Untimely") and the client (referred to as "CC" in Columns headed "Untimely"). Plaintiffs have no reason to believe this method of allocating fault complies with stringent federal requirements for attributing the cause of delay. Even if the

method complies with federal standards, however, in May 2010 defendant assigned herself fault for delay in 18.5% of expedited SNAP dispositions and 13.4% of all SNAP dispositions. See Exh. "C".

19. Defendant has noted DHS's worsening performance in processing SNAP applications between federal fiscal years 2008 and 2009: "The backlog of overdue SNAP applications - exceeding the 30-day deadlines for timely eligibility determinations - worsened statewide by 88 percent, comparing Federal Fiscal Year (FFY) 2008 (October 1, 2007 - September 30, 2008) to FFY 2009 (October 1, 2008 - September 30, 2009). March 25, 2010 Letter from Lillian B. Koller to Sanford Chun, a copy of which is attached as Exh. "D", at 7.

20. Defendant has noted that between FFY 2008 and FFY 2009, Maui's untimeliness worsened "by 268%, with a backlog of 3,028 overdue applications in FFY 2009, compared to 823 overdue applications in FFY 2008." *Id.*

21. According to Defendant, Kauai's untimeliness performance worsened "by 188%, with a backlog of 438 overdue

applications in FFY 2009, compared to 152 overdue applications the year before." *Id.*

22. According to Defendant, Oahu's untimeliness performance worsened during this period by 27%, with "3,128 overdue applications in FFY 2009, compared to 2,456 overdue applications in FFY 2008." *Id.*

23. According to Defendant, comparing the periods of October 2008 - January 2009 with October 2009 - January 2010, Defendant's untimeliness performance worsened by 44.61%. *Id.*

III. CLASS COUNSEL WILL FAIRLY AND ADEQUATELY PROTECT THE INTERESTS OF THE CLASS

24. LEJ has extensive experience in class actions and has been found to be qualified to act as class counsel in previous cases, many of them involving claims relating to federal and state benefits.

25. Class actions in which LEJ has served as class counsel include the following:

a. In *Amone v. Aveiro*, CV04-00508 ACK/BMK, LEJ (along with co-counsel Alston Hunt Floyd & Ing ("AHFI")) filed a class action lawsuit against the Housing and Community

Development Corporation of Hawaii ("HCDC") alleging that the HCDC had failed to provide supplemental utility allowances for disabled tenants who had lived or were living in federally subsidized housing managed by the HCDC and who, because of their medical needs, consumed a greater amount of utilities than other tenants. LEJ and AHFI obtained a permanent injunction in favor of the plaintiff class.

b. In *Waters v. Housing and Community Development Corp. of Hawai'i*, Civil No. 05-1-0815-05 EEH, LEJ and AHFI filed a class action lawsuit against the HCDC alleging that the HCDC had failed to update utility allowances for hundreds of tenants who had lived or were living in federally-subsidized housing managed by the HCDC. LEJ and AHFI obtained a \$2.3 million settlement. This action and others filed by LEJ and AHFI caused the HCDC to finally upgrade utility allowances and institute a process for keeping them updated in the future.

c. In *Blake v. Nishimura*, CV No. 08-00281 SPK/LEK, LEJ and AHFI filed a class action lawsuit against the City and County of Honolulu ("City"), owner of the Westlake apartments, a federally-subsidized housing project with 95 units. The lawsuit

alleged that the City had failed to properly update and adjust utility allowances for tenants who had lived or were living in the complex. LEJ and AHFI obtained a settlement of \$45,000 that was dispersed to eligible class members.

d. In *Kaleuati v. Tondo*, CV No. 07-00504 HG/LEK, LEJ and AHFI (along with the American Civil Liberties Union ("ACLU")) filed a class action lawsuit against the Hawaii Department of Education ("DOE") for its failure to comply with the federal McKinney-Vento Act ("MV Act"). The MV Act required the DOE to provide opportunities for children who had become homeless to continue their enrollment in their home school regardless of their shelter location and pay for travel to their home school if they lived outside the home school district. LEJ, AHFI, and the ACLU obtained a preliminary injunction requiring the DOE to comply with the provisions of the MV Act. The case was permanently settled with the DOE with conditions that required the DOE to facilitate enrollment in the home school of affected class members, pay for their travel if required and engage in significant outreach to homeless families or those at risk of homelessness to educate them of their rights under the MV Act.

I declare under penalty of perjury under the laws of the State of Hawai'i and the United States of America that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, November 16, 2010.



M. VICTOR GEMINIANI, ESQ.

STATE OF HAWAII
Department Of Human Services

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

APPLICATION INTERVIEW APPOINTMENT

Date: 10/13/10

David Bohm
P.O. Box 800 861569
Wahiawa, HI 96786

We have received your application for assistance dated 9/29/10 and have scheduled the following office interview. ****PLEASE BRING THIS LETTER TO THE OFFICE ON THE DATE OF YOUR INTERVIEW.****

Date: 10/25/10 Mon
Time: 11:00 am
K. MINA

Place: Dept. of Human Services
BESSD/KAMOKILA UNIT
601 Kamokila Blvd., Rm. 468
Kapolei, Hawaii 96707

If you are over 60 years old, disabled, working or have other hardships we may do a telephone interview with you. Please call us at (808) 692-8379 if you want a telephone interview or need to change your interview date or time. You may bring someone to help you with the interview. If you need an interpreter, please call the telephone number listed above immediately so we can arrange to have an interpreter. If you are late or miss your interview appointment, it will be your responsibility to contact the application unit if you still wish to apply for assistance.

- In order for the Department to help you, the Department needs to verify your **ENTIRE HOUSEHOLD'S** income, assets, composition, and shelter costs.
- **FAILURE TO BRING THE NEEDED ITEMS WILL CAUSE A DELAY IN DETERMINING YOUR ELIGIBILITY.**

1. **IDENTIFICATION:** The person(s) appearing for the interview must provide verification of their identity; i.e., driver's license, birth certificate, baptismal certificate, state ID, etc.
2. **BIRTHDATE VERIFICATION FOR ALL HOUSEHOLD MEMBERS:** Bring in birth certificates or baptismal certificates or other birth verification for all members included in your application for financial assistance. If pregnant, provide a doctor's statement showing your due date.
3. **SOCIAL SECURITY NUMBERS:** ALL FAMILY MEMBERS must have social security numbers to receive benefits (except for recipients of Aged, Blind and Disabled assistance). Provide the numbers for all family members. If you do not have a number, the worker will provide you with a Referral Form for a Social Security Number, DHS 1475, at the time of your interview.
4. **CITIZENSHIP:** Bring verification of citizenship or alien status.
5. **EARNINGS:** Bring in pay stubs for the last three months as well as current month's. If you have recently started work and have no pay stubs as yet, please bring verification of the date you started work, work hours, pay rate, and when first paycheck is expected from your employer.

SELF-EMPLOYED: Bring your general excise tax license and verification of your income and expenses for the last three months as well as current month's.

6. **OTHER INCOME:** (includes benefits applied for but pending a determination.)
 - a. **Unemployment Benefits (UIB), Worker's Compensation, Temporary Disability Benefits (TDI), Veteran's Benefits, Social Security or SSI Benefits, Annuities, Retirement, Pension:** Bring verification of application for benefits. If you have already received a determination letter, bring the letter. If already collecting benefits, bring determination letter, payment card, or copy of check.
 - b. **Child Support or Alimony Payments:** Bring a copy(s) of the court order of support, marriage certificates, divorce decree(s), and verification of current child support payments.

- c. **Welfare Assistance from Another State:** Bring copy of discontinuance or termination notice. Without termination letter, assistance from our State cannot be determined.
 - d. **Personal Loans Received:** Bring statement from lender as to amount and purpose of loan.
 - e. **Contribution or Gifts:** Provide statement of amounts and dates.
 - f. **Verification of money being received** from any source, for example, dividends, interest, etc.
7. **ASSETS** for all household members, including joint accounts with non-household members:
- a. **Checking account, Savings account, Money Market Certificates/IRAs, and Credit Union accounts:** Bring all current bank statements. If applying for financial assistance, verify balance as of the date of application. If applying for food stamps, verify balance as of the date of interview.
 - b. **Life Insurance:** Check with your agent and bring in a statement of the CASH VALUE of any insurance policies, outstanding loans, or encumbrances. Bring in life insurance policies.
 - c. **Stocks and Bonds:** Bring verification of current market value.
 - d. **Funeral/Burial Plans and Cemetery Plots:** Bring in sales contract/verification of value and conditions of the plan, and the current value of the cemetery plots.
 - e. **Real Property:** If you own property other than that on which you are living, bring in tax key number, information concerning income derived from property, and statement of current outstanding mortgage balance principle, interest, and escrow.
 - f. **Verification of any other resources.**
8. **SHELTER:** Bring your rent receipt, lease agreement, mortgage statement, or Section 8 statement. If you share rent or mortgage, bring verification of the total rent or mortgage being paid at your residence and the amount you pay as your share. If applicable, bring in property tax bill and homeowners insurance statement.
9. **UTILITY STATEMENTS:** Bring most current bill from electric, gas, water, and telephone companies. If you live in Public Housing and pay excess utilities, please bring in a statement from the Hawaii Housing Authority.
10. **CHILD CARE:** Bring current receipt/statement from the child care provider of the amount being paid, their name, address and phone number.
11. **WORK ACTIVITY REQUIREMENT (AFDC-Federal and State Financial Assistance Only):** Able-bodied adults who have received 24 months of assistance in the past, may be required to do a monthly work activity beginning with the month your application is submitted. If required, your household will not be eligible for any month a work activity is not done.
12. **SCHOOL ATTENDANCE:** For all youths aged 16 or older included in the application, bring a statement from the school verifying current registration, enrollment or attendance.
13. **ELDERLY (OVER 60 YRS) AND/OR DISABLED:** Bring in current medical bills/statements you have received for doctor/dentist visits, prescriptions, etc.
14. **DISABILITY STATEMENT:** If disabled, bring doctor's statement verifying the nature of your illness, its start, and the date when you will be able to return to work.
15. **MEDICAL/DRUG/VISION/DENTAL PLANS:** If you have private medical and/or dental plans, bring in your medical, dental, vision, or drug cards.
16. **QUESTIONABLE INFORMATION:** Your worker will inform you of other proof/verification you may need to submit in order to clear up any questionable or unclear information.

601 KAMOKILA BLVD
ROOM 468
KAPOLEI HI 96707
(808) 692 7171

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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

CASE NUMBER: 00057521
CASELOAD ID: 06 212

MAILING DATE: 11/03/10

DAVID L. BOHN
PO BOX 861569
WAHIAWA HI 96786

DEAR DAVID L. BOHN

YOUR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) APPLICATION WAS RECEIVED ON SEPTEMBER 29, 2010.

YOU DID NOT APPEAR FOR YOUR SNAP INTERVIEW ON OCTOBER 25, 2010 .

YOU ARE RESPONSIBLE TO RESCHEDULE THIS INTERVIEW AND MUST CONTACT YOUR WORKER BY OCTOBER 29, 2010 TO MAKE ANOTHER APPOINTMENT.

YOU DO NOT HAVE TO COMPLETE ANOTHER APPLICATION IF YOU CONTACT US BY THIS DATE. IF YOU DO NOT CONTACT US, YOUR APPLICATION WILL BE DENIED.

IF THE DEADLINE TO CONTACT YOUR WORKER HAS PASSED, YOU MUST FILE A NEW APPLICATION.

AUTH.: H.A.R. 17-647-31, 17-647-34.

HEARING RIGHTS AND OTHER IMPORTANT INFORMATION ARE EXPLAINED ON THE BACK OF THIS NOTICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT ME AT THE PHONE NUMBER LISTED ABOVE.

Received 11/5/2010

NOTICE #X042

K K. MINA

EXHIBIT "B"

Application Timeliness (FFY 2010)
STATE SUMMARY

MONTH	TOTAL APPS REC'D	ALL DISPOSITIONS									
		TIMELY					UNTIMELY				
		TOTAL	#	%	# AG	% AG	# CC	% CC			
OCTOBER	4,925	5,045	4,224	83.7%	472	9.4%	349	6.9%			
NOVEMBER	4,839	4,917	3,940	80.1%	608	12.4%	369	7.5%			
DECEMBER	4,591	5,181	4,172	80.5%	600	11.6%	409	7.9%			
JANUARY	4,672	4,448	3,569	80.2%	488	11.0%	391	8.8%			
FEBRUARY	4,408	4,519	3,593	79.5%	550	12.2%	376	8.3%			
MARCH	5,070	5,158	4,021	78.0%	703	13.6%	434	8.4%			
APRIL	4,762	4,866	3,843	79.0%	627	12.9%	396	8.1%			
MAY	4,695	4,905	3,789	77.2%	656	13.4%	460	9.4%			
JUNE	0	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!			
JULY	0	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!			
AUGUST	0	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!			
SEPTEMBER	0	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!			
TOTALS:	37,962	39,039	31,151	79.8%	4,704	12.0%	3,184	8.2%			

EXHIBIT "C"

Application Timeliness (FFY 2010)
STATE SUMMARY

MONTH	EXPEDITED DISPOSITIONS											
	TIMELY				UNTIMELY				% OF EXP			
	TOTAL	#	%	# AG	% AG	# CC	% CC	# AG	% AG	# CC	% CC	OF EXP
OCTOBER	1,553	1,209	77.8%	205	13.2%	139	9.0%	205	13.2%	139	9.0%	30.8%
NOVEMBER	1,515	1,071	70.7%	278	18.3%	166	11.0%	278	18.3%	166	11.0%	30.8%
DECEMBER	1,542	1,130	73.3%	246	16.0%	166	10.8%	246	16.0%	166	10.8%	29.8%
JANUARY	1,390	1,041	74.9%	191	13.7%	158	11.4%	191	13.7%	158	11.4%	31.3%
FEBRUARY	1,346	912	67.8%	234	17.4%	200	14.9%	234	17.4%	200	14.9%	29.8%
MARCH	1,587	1,059	66.7%	311	19.6%	217	13.7%	311	19.6%	217	13.7%	30.8%
APRIL	1,503	1,016	67.6%	296	19.7%	191	12.7%	296	19.7%	191	12.7%	30.9%
MAY	1,462	1,002	68.5%	270	18.5%	190	13.0%	270	18.5%	190	13.0%	29.8%
JUNE	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	#DIV/0!
JULY	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	#DIV/0!
AUGUST	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	#DIV/0!
SEPTEMBER	0	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	0	#DIV/0!	#DIV/0!
TOTALS:	11,898	8,440	70.9%	2,031	17.1%	1,427	12.0%	2,031	17.1%	1,427	12.0%	30.5%

Application Timeliness (FFY 2009)
STATE SUMMARY

MONTH	TOTAL APPS REC'D	ALL DISPOSITIONS											
		TIMELY					UNTIMELY						
		#	%	# AG	% AG	# CC	% CC	#	%	# AG	% AG	# CC	% CC
OCTOBER	4,947	5,031	86.3%	380	7.6%	311	6.2%	3,587	85.4%	309	7.4%	305	7.3%
NOVEMBER	4,012	4,201	86.6%	328	7.1%	290	6.3%	3,980	84.6%	362	8.9%	264	6.5%
DECEMBER	4,211	4,069	84.9%	342	7.9%	312	7.2%	3,443	86.1%	364	7.6%	303	6.3%
JANUARY	4,572	4,793	85.7%	398	7.7%	345	6.7%	3,665	86.1%	369	7.9%	279	6.0%
FEBRUARY	3,970	4,677	85.9%	391	7.7%	326	6.4%	4,126	87.0%	396	7.3%	310	5.7%
MARCH	5,042	5,070	85.7%	447	8.5%	305	5.8%	4,441	85.0%	519	9.1%	332	5.8%
APRIL	4,859	5,184	85.8%	4,605	7.9%	3,682	6.3%	4,029	85.8%	4,605	7.9%	3,682	6.3%
MAY	4,473	4,677	85.9%	391	7.7%	326	6.4%	4,353	87.0%	396	7.3%	310	5.7%
JUNE	5,069	5,070	85.7%	447	8.5%	305	5.8%	4,707	85.7%	447	8.5%	305	5.8%
JULY	5,338	5,413	85.0%	519	9.1%	332	5.8%	4,490	85.0%	519	9.1%	332	5.8%
AUGUST	5,395	5,242	85.0%	519	9.1%	332	5.8%	4,826	85.0%	519	9.1%	332	5.8%
SEPTEMBER	5,403	5,677	85.0%	519	9.1%	332	5.8%	4,826	85.0%	519	9.1%	332	5.8%
TOTALS:	57,291	58,274	85.8%	4,605	7.9%	3,682	6.3%	49,987	85.8%	4,605	7.9%	3,682	6.3%

Application Timeliness (FFY 2009)
STATE SUMMARY

MONTH	EXPEDITED DISPOSITIONS										
	TIMELY					UNTIMELY					% OF EXP
	TOTAL	#	%	# AG	% CC	# AG	% CC	# CC	% CC	%	
OCTOBER	1,444	1,152	79.8%	159	11.0%	134	9.3%	134	9.3%	28.7%	
NOVEMBER	1,250	997	79.8%	118	9.4%	135	10.8%	135	10.8%	29.8%	
DECEMBER	1,365	1,142	83.7%	98	7.2%	125	9.2%	125	9.2%	29.7%	
JANUARY	1,305	1,072	82.1%	122	9.3%	111	8.5%	111	8.5%	32.1%	
FEBRUARY	1,414	1,173	83.0%	112	7.9%	129	9.1%	129	9.1%	32.7%	
MARCH	1,554	1,263	81.3%	132	8.5%	159	10.2%	159	10.2%	32.4%	
APRIL	1,779	1,465	82.3%	160	9.0%	154	8.7%	154	8.7%	34.3%	
MAY	1,540	1,281	83.2%	141	9.2%	118	7.7%	118	7.7%	32.9%	
JUNE	1,679	1,423	84.8%	115	6.8%	141	8.4%	141	8.4%	33.1%	
JULY	1,699	1,422	83.7%	128	7.5%	149	8.8%	149	8.8%	31.4%	
AUGUST	1,630	1,333	81.8%	168	10.3%	129	7.9%	129	7.9%	31.1%	
SEPTEMBER	1,737	1,382	79.6%	198	11.4%	157	9.0%	157	9.0%	30.6%	
TOTALS:	18,396	15,105	82.1%	1,651	9.0%	1,641	8.9%	1,641	8.9%	31.6%	

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 25, 2010

Sanford Chun
Field Services Officer
Hawaii Government Employees Association
888 Mililani Street, Suite 601
Honolulu, Hawaii 96813-2991

Hand-Delivered

Subject: Notice of Intention to Proceed; Urgency of Moving Forward
with EPOD Reorganization and Reduction-In-Force

Dear Mr. Chun:

I was very disappointed to receive your latest letter on March 22, 2010, regarding the Department of Human Services (DHS) plan to create an Eligibility Processing Operations Division (EPOD) with facilities in Honolulu and Hilo. As you know, this initiative will involve a DHS reorganization and concurrent Reduction-In-Force (RIF).

It is clear from your latest repetitious questions that the Hawaii Government Employees Association (HGEA) does not want to engage in constructive consultation at this time about how DHS can best implement the EPOD plan. Rather, HGEA seems intent on doing all it can to maintain the unacceptable status quo by stopping the EPOD initiative.

Your obstructionist strategy became obvious when union leaders cancelled a February 9 consultation with DHS – supposedly because HGEA was “not ready to meet yet” – then used a February 8 legislative briefing to publicly discuss our plan and mislead lawmakers and the public by wildly exaggerating the numbers of office closures and employee lay-offs related to the EPOD reorganization and RIF.

Instead of providing constructive feedback, HGEA is waging a statewide “anti-EPOD” campaign designed to confuse and frighten DHS staff and their families, advocates for the needy and especially the vulnerable customers we serve.

As I detail below, there is an urgent need to proceed as quickly as possible with the EPOD initiative. The needs of our customers are great and we cannot fail in our obligation to provide them with health care, food and other necessities in an efficient and timely manner.

AN EQUAL OPPORTUNITY AGENCY

EXHIBIT "D"

Sanford Chun, HGEA Field Services Officer
March 25, 2010
Page 2

Moreover, with State government facing an unprecedented budget shortfall -- as underscored by the Council on Revenues at its latest meeting -- DHS cannot afford to maintain an antiquated eligibility processing system that is labor-intensive, prone to error, inefficient, costly and slow.

Instead, we must bring eligibility processing into the 21st century by moving ahead with the EPOD initiative, which will significantly improve customer service while saving taxpayers at least \$8 million per year, including approximately \$1.7 million in eliminated commercial office space and related costs.

Accordingly, DHS plans to fully implement the EPOD plan no later than October 1, 2010. We welcome HGEA's constructive input during the weeks and months ahead on how DHS can best carry out this vital and timely initiative.

To date, two months after we initiated consultation, DHS has received from HGEA only the following items: 10 questions in your February 18 letter, 10 questions in your March 1 letter and 18 questions in your March 22 letter. In this March 25 letter and our prior letters, DHS has answered all of your questions, many of which were repetitious.

In addition, DHS has provided a great deal of unsolicited information to HGEA about what we are proposing to do, far in excess of what HGEA has asked to receive. This additional information includes, but is not limited to:

- Two DHS letters dated January 29 and delivered to HGEA the same day, describing in great detail our proposed EPOD reorganization and proposed RIF selection criteria, our proposed workflow changes, our reasons and research supporting the cost-effectiveness of consolidating eligibility functions as we have proposed to do, the superior outcomes that will result for both customers and government staff, compared to the slow, labor-intensive and more costly method of eligibility processing that DHS has been using for years;
- DHS letter dated February 23, responding to HGEA's first 10 questions in its letter dated February 18 (delivered February 19);
- DHS PowerPoint presentation materials provided to you, Legislators, DHS staff and others attending the Senate Human Services Committee public informational briefing on February 23 that DHS requested to describe our EPOD reorganization and RIF proposals;
- DHS revised reorganization charts dated February 26, identifying the position numbers of all positions proposed by DHS to be retained in the two EPOD processing centers in Honolulu and Hilo, showing the results of applying the RIF selection criteria proposed by DHS (about which DHS has remained open to receive input from HGEA during this consultation but, to date, has received none);

Sanford Chun, HGEA Field Services Officer
March 25, 2010
Page 3

- DHS proposed RIF list dated February 26, identifying the affected positions numbers, incumbent names, position titles and locations, again, showing the results of applying the RIF selection criteria proposed by DHS (about which DHS has remained open to receive input from HGEA during this consultation but, to date, has received none);
- DHS letter dated March 5, responding to HGEA's second 10 questions in its letters dated March 1, some of HGEA's questions repeating or similar to those asked in HGEA's letter dated February 18 (delivered February 19); and
- DHS chart provided on February 26, showing the proposed span of control (supervisor-to-worker ratios), identifying the numbers and types of workers in each of the proposed two EPOD processing centers in Honolulu and Hilo.
- DHS letter hand-delivered on March 25 responding to the 18 questions in HGEA's March 22 letter.

More than a month after DHS first requested to discuss the EPOD concept in mid-January, HGEA finally agreed to meet with us on February 26. At this consultation meeting, which I personally attended with key staff from DHS and the Department of Human Resources Development (DHRD), we had the opportunity to receive some input from you and HGEA Deputy Executive Director Nora Nomura.

Unfortunately, the input we received from you and Ms. Nomura at our February 26 consultation meeting was not constructive. The input, such as it was, failed to communicate anything about what alternatives HGEA would prefer us to consider in lieu of our proposed RIF selection criteria. Nor did we receive any suggestions on how to mitigate the impacts from our EPOD and RIF proposals.

We did not even receive any suggested improvements to consider incorporating into the proposed EPOD processing centers, relating to our proposed supervisory span of control, new locations, changes in workflow, nor any other feedback on the extensive information that we provided to HGEA about what we propose to do.

Instead, we heard comments such as the following, conveyed with passionate contempt by you and Ms. Nomura for what we are proposing to do:

"We think it's crazy!"

"We disagree with what's being done! No one we've talked to says this is better for workers and the State."

"If you involved people, you may have found another way to do it!"

"Do you care about your employees? Do you care about what they think and feel? Employees and the public have deep concerns. It doesn't seem that you care!"

Sanford Chun, HGEA Field Services Officer
March 25, 2010
Page 4

Instead of engaging in meaningful consultation, HGEA is obstinately insisting on one thing and one thing only – the EPOD reorganization and RIF must be stopped or indefinitely delayed.

To achieve this end, HGEA has waged a widespread, public "anti-EPOD" campaign on all Islands. This campaign exploits the fear of DHS staff who may be laid-off, and deliberately scares clients and communities with unfounded charges that EPOD will reduce consumer access to public benefits and increase the incidence of client fraud.

DHS respectfully submits that such actions do not constitute meaningful consultation by HGEA. In fact, it is the opposite. It is a refusal to consult.

DHS respectfully submits that permitting ourselves to be publicly and privately chastised, berated and insulted by HGEA, and by others whom HGEA has inflamed, is not what DHS must do before proceeding with our proposed EPOD and RIF. These are measures that we believe will serve our customers, staff and taxpayers better than the eligibility processing system we have now.

HGEA's public remarks have blamed all our eligibility woes on the last RIF initiated in August 2009 and the on-going furloughs initiated for HGEA members in October 2009.

However, at our Med-QUEST Division (MQD), for instance, we only lost 11 eligibility workers in last year's RIF. And just one of those laid-off employees was an Eligibility Worker III, which is the only level of eligibility worker permitted by class specification to carry a caseload independently and perform "the full-range of eligibility determination work for a variety of public assistance programs including food stamps, medical assistance and financial assistance."

Surely, if the loss of just one, full-range eligibility worker can crash the productivity of our medical assistance applications and renewal processing, our current eligibility processing system is, indeed, perilously fragile and must be reformed immediately.

Also, in our Benefit, Employment and Support Services Division (BESSD), we managed to improve service by expanding the number of hours per week that customers can meet with eligibility workers. We made this improvement despite the RIF and two furlough days per month.

In lieu of providing appropriate input to DHS, HGEA's actions, to date, are entirely devoted to creating sufficient political pressure on this Administration to stop the EPOD altogether or delay its implementation until after this Administration leaves office in December.

The EPOD proposal to modernize the way DHS performs eligibility functions is urgently needed to better serve our customers, the most vulnerable men, women and children in Hawaii.

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These customers have been denied timely access to vital public assistance benefits due to DHS backlogs exacerbated by recent surges in applications and enrollment, which our old-fashioned processing methods simply cannot manage effectively and efficiently.

As we have known for a long time, the current DHS system of processing benefit applications is antiquated, highly inefficient, labor-intensive, prone to errors and slow.

At MQD, for instance, with the many incremental efforts undertaken in recent years to improve efficiency, we saw only a 12.3 percent increase in efficiency in 2009 compared to 2008. This, however, was not sufficient to address our backlog of processing new applications and ongoing renewals, along with the current increase in volume of applications.

To address the current volume and backlog of tasks at MQD, an aggressive systemic change in workflow procedures as proposed in the EPOD is required.

Similarly, at BESSD, we have also struggled for many years to deliver nutrition assistance cash benefits in a timely manner. This situation is particularly serious, and growing worse statewide -- especially on Maui.

The federal standard is that 95 percent of all nutrition benefit applications statewide should be timely processed. Maui's performance, hovering in the mid-80 percent range from October 2007 to September 2008, began dropping precipitously well before the August 2009 RIF. Maui dropped in timeliness to 74 percent in October 2008, to 71 percent in November 2008, to 64 percent in December 2008, to 56 percent in January 2009, and to 49 percent in February 2009.

Now our statewide timeliness level, as of January 2010, is just 80 percent, meaning Hawaii is on the verge of being financially penalized by the federal government for not delivering benefits on time.

Here are more examples of the exigencies that are compelling DHS to move forward with our EPOD and RIF proposals as quickly as possible.

Without the proposed EPOD modernization, more of Hawaii's people will go hungry.

No one should go hungry in Hawaii -- especially when so much assistance is available. The sad truth, however, is that people are going hungry, and State government is not doing all it can to help.

At DHS, we administer the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps.

SNAP benefits are entirely paid for with federal funds, and administrative costs are shared equally by DHS and the U.S. Department of Agriculture (USDA).

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In Hawaii, we've won federal bonuses for accuracy in the past and, more recently, for improved outreach expansion. According to the latest USDA statistics, 71 percent of Hawaii residents who are eligible for SNAP are enrolled in the program. But that puts us at No. 18 in the nation which we must work harder to improve.

Where we lag even further behind many states, however, is in timeliness – the speed with which we process applications and renewals. Ideally, states should have a timeliness rate of 95 percent or better, but, as I said previously, we are significantly below that mark – especially on Maui.

DHS could do more for needy residents by raising the income eligibility limit for SNAP from 185 to 200 percent of the Federal Poverty Level, the maximum USDA allows.

We plan to expand eligibility by this summer, which will feed more people and bring in extra federal dollars to strengthen our economy. According to USDA, every \$5 in new SNAP benefits generates \$9.20 in total economic activity.

That is good news, but DHS should have expanded eligibility much sooner. Why didn't we? Our current method of processing applications is labor-intensive, inefficient and slow, and we lack funds for hiring more State workers to prop up this outdated system.

Fortunately, solutions are available from the USDA, which shares "best practices" from other states. Much of this advice is contained in the SNAP 2010 Program Access Toolkit at: www.fns.usda.gov/FSP/government/pdf/2010-toolkit.pdf.

DHS wants to implement many of these strategies by creating EPOD, which would streamline approvals for SNAP, Medicaid and other public benefits statewide.

With EPOD, customers could apply online or by phone, which would improve service and generate cost savings, or they could still apply the old-fashioned way – in-person or by mail or fax.

The USDA points out that New Mexico streamlined benefits processing when staffing levels were low and caseloads and error rates were rising.

By creating teams charged with tasks such as working the phone banks – and doing away with the old system of eligibility workers managing individual cases (as DHS has been doing for years) – New Mexico reduced the average wait time for benefits from 20 days to just 6.2 days.

USDA also dispels a "common myth" that phone interviews increase fraud. The fact is, states that implement phone interviews "have not reported an impact on error rates," according to the USDA's published SNAP toolkit.

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Federal officials also encourage online applications so customers can access benefits via their home computers or by using public computers at local libraries and other locations.

Online applications improve access for those "who cannot easily get to a local office," such as working households, people with disabilities and people who have transportation problems, the USDA notes.

Hawaii is far behind other states in streamlining benefits processing. Implementing our EPOD proposal, however, would be a huge step in the right direction.

Without the proposed EPOD modernization, more of Hawaii's people will suffer long waits to get SNAP and other public assistance benefits.

- The backlog of overdue SNAP applications – exceeding the 30-day deadline for timely eligibility determinations – worsened statewide by 88 percent, comparing Federal Fiscal Year (FFY) 2008 (October 1, 2007 - September 30, 2008) to FFY 2009 (October 1, 2008 – September 30, 2009).
- Maui's eligibility untimeliness was, most disturbingly of all, worsening by 268 percent, with a backlog of 3,028 overdue applications in FFY 2009, compared to a backlog of 823 overdue applications the year before.
- Kauai also performed poorly, worsening eligibility untimeliness by 188 percent, with a backlog of 438 overdue applications in FFY 2009, compared to 152 overdue applications the year before.
- While Oahu's eligibility untimeliness worsened by only 27 percent, Oahu's applications continued a significant backlog of 3,128 overdue applications in FFY 2009, compared to 2,456 overdue applications in FFY 2008.
- It is important to note that these backlogs pre-dated the last RIF initiated on August 4, 2009, which did not result in any lay-offs until December 2009 and January 2010.
- Fortunately, SNAP eligibility timeliness has already improved significantly due to the implementation of telephonic interviewing in November 2009.
- Specifically, as previously noted, SNAP eligibility untimeliness worsened statewide from FFY 2008 to FFY 2009 (ending September 30, 2009) by an additional 88 percent. However, comparing FFY 2009 (the four months of October 2008 – January 2009) to FFY 2010 (the same four months of October 2009 – January 2010), the eligibility untimeliness of processing SNAP applications statewide has worsened by only 44.61 percent, which is roughly half as worse as the same months in FFY 2009.

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- Telephonic interviewing is working very well, wherever it is used. For example, in BESSD's Section 2 eligibility units on Oahu, 55 percent of all interviews have been conducted by telephone since November 2009. On Maui, Molokai and Lanai, 94 percent of application interviews and 36 percent of renewals have been conducted by telephone since November 2009. East Hawaii is now doing 25 percent of all interviews by telephone. But West Hawaii is barely using telephone interviewing (one to two times per worker per month) and Oahu's Sections 1 and 3 as well as Kauai are all lagging too.
- Unfortunately, due to our disparate system of eligibility processing, this important improvement in customer service is being inconsistently applied. Consolidating eligibility functions into two, well-supervised, processing centers statewide, with integrated phone banking implemented, will ensure that this service improvement will become a systemic reform that can benefit all our customers equally.
- Importantly, the worst timeliness performance by DHS staff involved in eligibility functions actually occurred ~~before~~ the furloughs and RIF started late last year, which for HGEA members began in October and December 2009, respectively.
- Once again, this demonstrates that telephonic interviewing – which just started in November 2009 – is very effective at improving the timeliness of SNAP eligibility processing. This is why we need to integrate phone banking as a systemic reform through EPOD, and do so with all due haste.
- Our failure to consolidate and streamline eligibility has also short-changed thousands of Hawaii residents whom DHS could have made eligible for SNAP benefits. One of the most unfortunate consequences of the labor-intensive way that DHS has performed eligibility processing for years is that many more residents could have received SNAP benefits but have not. DHS has had to keep eligibility criteria lower than what is allowed by the federal government, due to our inefficient eligibility processing system.
- SNAP benefits are entirely paid for with federal funds, but administrative costs are shared equally by DHS and the USDA. And that is the problem. It costs Hawaii 50 percent State general funds to operate eligibility processing for SNAP benefits. This is why we need to use the most cost-effective method of processing eligibility. Otherwise, DHS is forced to cut back on those who can be made eligible for SNAP benefits because we cannot afford to hire more workers to operate an inefficient eligibility processing system.

Here are even more examples of the exigencies that are compelling DHS to move forward with our EPOD and RIF proposals as quickly as possible.

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Without the proposed EPOD modernization, more of Hawaii's people will suffer long waits to get Medicaid health insurance.

Both before and after the last RIF, MQD has expended great energy and expense at trying but failing to achieve timely processing of medical assistance applications and renewals. The options for improvement are severely limited within the existing eligibility processing system, as shown below. The existing system must be overhauled by the proposed EPOD as quickly as possible to ensure that our customers get timely access to Medicaid health insurance.

For example, comparing the first six months in 2008 with the last six months of 2009, there has been a 30.2 percent increase in the volume of applications for medical assistance applications received by MQD. After many efforts (the salient ones are described below), there was a modest increase of 13.7 percent in staff productivity, comparing the first six months of 2008 with the first six months of 2009. There has also been a 12.3 percent increase in efficiency in 2009 over 2008, notwithstanding the last RIF initiated on August 4, 2009.

Therefore, without the proposed EPOD modernization of eligibility processing, an increase in eligibility efficiency of 12 to 14 percent is the maximum improvement we can reasonably expect to sustain with the existing way we process eligibility at MQD.

Further, this modest increased efficiency cannot possibly keep up with the demands of continuing increased applications and backlogs.

It is important to realize that this modest increase of 12 to 14 percent in eligibility efficiency was difficult to achieve, often resisted by staff and required substantial additional spending on staff overtime and contracted services.

Most importantly, this modest increased efficiency was achieved, in large part, due to the support provided by Outreach Services, a private company contracted by MQD to provide temporary support handling the mail, registering applications and other tasks required for eligibility processing.

By contrast, the EPOD proposal will achieve substantial efficiencies without contracted services, based on the experiences of similar eligibility modernization outcomes in states such as Florida, Oregon, New Mexico, Arizona, Utah and Washington.

The volume of new medical assistance applications for the last 12 months is 6,122 per month, on top of the backlog of overdue applications and ongoing overdue renewals.

A significant backlog of medical assistance applications had amassed in 2008, forcing our needy customers to wait and wait to get health insurance coverage. Staggering numbers of applications exceeded 45 days – the deadline for timely Medicaid eligibility determinations – as shown in the chart below.

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MONTH	Number of applications exceeding 45 days
January-08	2224
February-08	1935
March-08	1787
April-08	2069
May-08	2079
June-08	1954
July-08	1960
August-08	2087
September-08	2256
October-08	1778
November-08	1835
December-08	1947
January-09	2270
February-09	1748
March-09	1613
April-09	1219
May-09	755
June-09	921
July-09	1148
August-09	922
September-09	743
October-09	744
November-09	906
December-09	1128
January-10	1593
February-10	1800

While the backlog of new applications exceeding 45 days peaked in January 2009 at 2,270 untimely applications, the numbers are still high in 2010 with 1,593 untimely applications in January and 1,800 untimely applications in February.

In addition to this persistent substantial backlog of new applications, there are backlogs of overdue eligibility renewals. The renewal backlog peaked in September 2009 with 562 overdue renewals, dropping to 212 in October and 112 in November, due in large part to the help from MQD's contracted support from Outreach Services.

However, HGEA filed a grievance to stop the Outreach Services contract and recently filed its intent to arbitrate. With all due respect, it is hard to imagine how MQD eligibility staff can maintain the level of efficiency, achieved only with the help of the Outreach Services

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contract, without its continued support. The overdue eligibility renewal backlog is rising again to 148 in January 2010 and 211 in February.

Making matters worse, on a regular monthly basis between 200 and 250 cases are transferred for eligibility processing from BESSD to MQD, where the date of the medical assistance applications are already close to or past the 45-day deadline for timely eligibility determinations to be made. This exacerbates MQD's monthly overdue statistics and backlogs.

Many different strategies had to be utilized at MQD over the past two years, some harder than others to implement, taking months and months of management time and resources, severely limited by the current eligibility processing system in what could be done to try to achieve efficiencies.

MQD had to use extensive overtime trying to clear up the backlog, which is clearly not a sustainable solution – not for our customers who have to wait and wait in backlogs to get their health insurance coverage, and not for Hawaii's taxpayers who cannot afford to support the State's extensive labor costs.

Salient efforts to improve efficiencies included the following: MQD's Kapolei Unit had to repeatedly provide assistance in addressing the backlogs at MQD's Dillingham Units. Boxes of unregistered applications were found and had to be registered and a new process put in place to avoid this from happening again.

Many eligibility pilot projects were implemented, all trying but all failing to achieve sustained timely registration and eligibility determinations. Standardized procedures for accepting and stamping mail, registering applications, extensive coaching of supervisors, close monitoring of line staff and performance reporting had to be developed and implemented.

None of these numerous incremental measures have worked to achieve sustained timely eligibility processing at MQD.

There is clearly a need for a systemic change in the way we do eligibility functions to ensure timely access to Medicaid health insurance for our needy customers.

Interestingly, with all of HGEA's "anti-EPOD" public rhetoric about how essential it is for consumers to have face-to-face interviews with eligibility workers, MQD data confirm that only 15 percent of all medical assistance applications come through face-to-face assistance of eligibility workers. The vast majority of Medicaid applications – 85 percent – come through other methods, including mail and fax.

The proposed EPOD will expand consumer options even more with online applications or applying over the phone, assisted by eligibility workers at call centers in the two EPOD processing centers in Honolulu and Hilo. Consumers can have easy access to computers and phones at remaining DHS offices on every Island as well as public libraries, community-

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based social service agencies, health centers and hospitals. And face-to-face interviews will still be available, as needed, by webcam.

The federal government strongly *encourages* states to modernize eligibility processing in precisely the ways which DHS intends to use in our proposed EPOD. These are practical and cost-effective ways, endorsed by the federal government, to provide increased consumer access to SNAP and other public assistance benefits, not less consumer access as HGEA insists will occur.

One of the most frustrating things about HGEA's "anti-EPOD" public relations campaign is the frequent repetition of falsehoods that create needless worry among our vulnerable consumers, their advocates and other concerned citizens.

For example, we frequently hear warnings that if the EPOD is implemented, consumers will have to apply by phone (untrue, because they can still apply in-person or by mail, fax and additionally online or by phone), and when they call into the EPOD call centers, they will get trapped in an automated phone system (untrue, because DHS never said its call centers would be automated – this is a complete fabrication), and consumers who do not speak English will not be able to get benefits.

Actually, if consumers choose to apply by phoning EPOD call centers (which we will encourage them to do because it is easiest of all the application options), they will speak directly with an eligibility worker, just as they do now. And people who do not speak English will be able to apply for benefits just as they do now, which, incidentally, is typically provided by translators assisting applicants over the phone.

Another frequent fright raised by HGEA in its "anti-EPOD" campaign is that it took Florida years to develop and implement its modernized eligibility processing system, so DHS must naturally slow things down.

This reason to stop our proposed EPOD and RIF is based on a false assumption by HGEA. The EPOD being proposed by DHS will not and cannot possibly be exactly like Florida's system.

As DHS explained in our February 23 letter, EPOD is a fundamentally different way of handling eligibility work. It organizes the work by eligibility function versus caseload. By units specializing in a particular function, e.g. "re-determinations," and eliminating other distractions, tremendous efficiencies can be realized as evidenced in other states.

Even without additional automation, we fully expect to achieve significant gains in overall efficiency. However, we are pursuing some automation that we believe will further enhance the efficiencies gained by the new organization of workflow.

This new automation involves the development of an online application and an electronic calculator. This automation effort cost \$783,382 in total funds, of which only \$22,000 was State funded and the balance was federally funded.

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Also, in our March 5 letter, we clarified: "It is important to understand that this automation initiative is separate from the EPOD proposal. The efficiencies we expect to achieve through EPOD are based on a streamlined workflow, not on an automated system."

Given that Florida's eligibility system is totally automated, it is obvious that our proposed EPOD is not going to be exactly like the one in Florida. Rather, our proposed EPOD is based on a combination of features from many states, including Florida.

We got our concept of fully integrating eligibility functions for all our public assistance benefits into our EPOD from Florida's fully-integrated eligibility model, while other states have consolidated some but not all benefits. We got our mostly non-automated, but greatly streamlined workflow redesign, from the eligibility consolidations in Oregon and New Mexico. While our EPOD will include integrated phone banking in all aspects of the work conducted at the two processing centers, eligibility workers will work the phones, not the automated mechanisms used in Florida.

DHS has neither the time nor the money to invest to fully automate like Florida. And our needy consumers cannot afford to wait any longer either. We must act quickly to expedite our eligibility functions so our vulnerable customers can timely access vital benefits. Our EPOD must, thus, be an efficient hybrid.

Please note that Florida has just two processing centers to handle eligibility for a total population of 18.5 million covering a combined land and water area of 65,755 square miles, compared to Hawaii's population of only 1,295,178 and total land and water area of only 10,931 square miles.

Also, please note that our staffing levels were based on consolidating eligibility functions without automating the eligibility process with online applications and scanned documents. Therefore, the staffing levels at the two EPOD processing centers retain more line workers than needed when such technology improvements are fully implemented.

HGEA is also misrepresenting the findings of the Mathematica study of Florida's ACCESS program to streamline eligibility processing. The study points out that the difficulties experienced in Florida were attributable to the surge of applications and emergency financial aid that had to be distributed quickly to hurricane victims. Such natural disasters would put a tremendous burden on even the best eligibility processing system and should not be interpreted as a failure of Florida's ACCESS program, as noted in the Mathematic study.

It is important to keep in mind that there is a special relationship between the people DHS serves and the way we serve them. The DHS public service mission – to help Hawaii's most vulnerable men, women and children – gives rise to a DHS operational mission. This mission is to ensure that the way DHS processes public assistance benefits makes it as easy as possible for people to access and maintain the benefits for which they are eligible.

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When we make it easier for people to access the benefits for which they are eligible, it increases applications and enrollment in our public assistance programs. That is a good thing because it means that more people who are eligible for DHS benefits are receiving those benefits.

However, when applications and enrollment increase, there is more work for our staff to handle.

If the only answer to increased caseloads is to hire more staff, then the interests of the State – unable to afford ever-increasing labor costs – would run counter to the interests of those whom we serve at DHS – Hawaii's needy people.

Fortunately, there is a better way that does not pit the interests of the State's workforce against the interests of the needy people whom we serve at DHS.

Modernizing eligibility processing creates a win-win situation where customers have easier access to public assistance benefits which increases caseloads, and workers have easier ways to handle those increased caseloads.

During my tenure as Human Services Director, DHS has modernized eligibility processing many times before, in order to enable DHS staff to handle increased caseloads from this Administration's initiatives to expand public assistance benefits to better serve Hawaii's neediest men, women and children.

In other words, we have both expanded the public assistance benefits for Hawaii's needy residents and, at the same time, made it easier for my staff to process the applications, renewals and maintenance of client cases. This is the same balancing of public service and operational missions that is most recently exemplified in the EPOD proposal.

For example, we expanded Medicaid benefits for children from 200 percent to 300 percent of the Federal Poverty Level (FPL), long before President Obama recently increased the federal Children's Health Insurance Program in February 2009. We also expanded Medicaid benefits for adults from 100 to 200 percent FPL by creating QUEST-ACE.

These Medicaid expansion initiatives caused more applications for medical assistance and higher enrollment in our Medicaid programs, requiring our staff to do more eligibility determinations, annual renewals and other eligibility maintenance activities. To lessen the increased workload, we streamlined the renewal process by adopting "passive renewal" for children enrolled in Medicaid.

Briefly, "passive renewal" – which is endorsed by the federal government – allows children to annually renew for Medicaid without resubmitting renewal paperwork. The process is mostly automated and easier than the regular renewal process. This creates a win-win situation that keeps low-income children receiving uninterrupted health care benefits and lessens the workload on eligibility workers.

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"Passive renewal" also significantly reduced the caseload of new applications which used to burden our eligibility workers due to "churning" – when someone gets terminated and then immediately reapplies. Prior to "passive renewal," an estimated 400 children per month were being needlessly terminated from Medicaid, not because they were no longer eligible but simply because their parents failed to submit the renewal paperwork on time. They then had to reapply for Medicaid, needlessly burdening eligibility staff with increased application work.

Another expansion of public assistance benefits during my tenure involved increasing the cash benefits (welfare) paid to families with dependent children living in poverty. DHS requested a statutory amendment to the standard of need and sufficient funding to raise these cash benefits for the first time since 1993. DHS also added other benefits, including a two-month housing assistance, enhanced transportation benefits, subsidized employment and other improvements to help our clients on welfare get employed and support their children. DHS also increased income levels for more families to receive child care subsidies to 200 percent FPL.

To reduce the burden on eligibility staff, DHS implemented "simplified reporting" – which is endorsed by the federal government. We used to require monthly verification of income (e.g., pay stubs, bank statements, etc.) from clients receiving welfare and other public assistance benefits. "Simplified reporting" significantly reduces the verification workload to only twice per year, instead of 12 times per year. With a client's single pay stub, the eligibility worker can "project" six months of pay stubs, instead of checking every month. This process greatly reduced the burden on my eligibility staff.

The most recent expansion of public assistance benefits will be for DHS to increase the income level at which individuals can qualify for SNAP nutrition assistance cash benefits. As I mentioned earlier, Hawaii has unfortunately been stuck at 185 percent FPL, which is well below the maximum 200 percent FPL allowed by the federal government. Clearly, increasing eligibility from 185 to 200 percent FPL would help many more of Hawaii's residents as well as stimulate Hawaii's troubled economy.

Keeping eligibility at 185 percent FPL is preventing thousands of Hawaii's residents from receiving vital nutrition assistance. SNAP cash benefits are funded with 100 percent federal funds. Keeping eligibility at 185 percent FPL has left as much as \$65 million annually in the federal coffers, instead of helping Hawaii residents with vital nutrition assistance.

For years, I beseeched my SNAP management to raise SNAP eligibility to the federal maximum of 200 percent FPL. Finally, I have been promised that this good deed will be accomplished by this July. However, up until now, my pleas had been rebuked by staff who insisted that they needed more employees to handle the increased applications that would result from raising the SNAP income eligibility from 185 to 200 percent FPL.

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In other words, Hawaii residents have been held hostage for years, denied of the opportunity to receive as much as \$65 million annually in SNAP nutrition assistance cash benefits, due to the shameful and little known fact that our eligibility process is so labor-intensive that it could not help more clients without hiring more staff, instead of doing the right thing by streamlining our eligibility process so fewer workers can handle more clients.

The turning point began in mid-2007 when, at my insistence, BESSD finally agreed to get a federal "waiver" to do telephone interviews for SNAP renewals instead of face-to-face interviews. These telephone interviews simplified the renewal workload for eligibility staff. Then, in September 2009, again at my insistence, BESSD finally agreed to expand its federal "waiver" to do telephone interviews for SNAP applications instead of face-to-face interviews.

My press release on September 18, 2009, announcing that DHS was eliminating the requirement of face-to-face interviews for SNAP applications, was received by all with great enthusiasm.

"Conducting interviews over the phone will be more convenient for our clients, while helping streamline the approval process...This latest improvement will provide easier access for Hawai'i residents who need SNAP assistance, without compromising our payment accuracy."

Doing interviews over the phone, instead of face-to-face, was correctly welcomed as a long-overdue customer service improvement when DHS first announced it and began implementing it during the last quarter of last year.

Yet early this year, as soon as DHS delivered our proposal to HGEA to consolidate eligibility functions statewide into a call center model called EPOD, and requested consultation with HGEA on January 29, 2010, on our proposed EPOD reorganization and RIF, everything suddenly changed.

Suddenly, it was no longer a good thing to integrate telephonic application and renewal processing to expedite eligibility determinations, clear up backlogs and improve customer access to benefits. Suddenly, telephonic interviewing for public assistance benefits became an "unconscionable" thing to do.

HGEA refused for more than a month to meet with DHS, claiming that union leaders were not ready to meet and, instead, HGEA waged a public anti-EPOD campaign, spreading misinformation about our proposal, wildly exaggerating the proposed number of office closures and lay-offs, exploiting the fear of DHS staff who may be laid-off, and deliberately scaring DHS clients and communities with unfounded charges that EPOD will reduce consumer access to public benefits and increase the incidence of client fraud.

Yet back in September 2009, when DHS first announced its customer service improvement of telephonic interviews instead of face-to-face visits, HGEA did not claim that telephone interviews would reduce customer access to benefits and increase fraud. Even when DHS

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conducted statewide training sessions for staff in October 2009 on the new telephonic interviewing procedures, HGEA did not criticize this method of applying for benefits.

HGEA is leading the opposition to EPOD for the obvious reason that a modern processing system would require fewer union employees to handle the workload.

Please note that DHS both intends and expects that one of the most positive outcomes of the EPOD modernization is improved access to public assistance benefits by eligible persons.

The EPOD modernization cannot cause any increase in the number of people who are eligible for public assistance benefits in Hawaii – they are either eligible or not, depending on their income and assets and other factors that make them eligible or not for DHS benefits. However, it is clear, from the successes of modernizing eligibility functions in other states, upon which our EPOD modernization is based, that EPOD will enable those who are eligible for benefits to receive those benefits more quickly.

This is the most significant customer service improvement that DHS is highly motivated to achieve through the EPOD. This is a positive impact on our program participation – increasing timely enrollment and renewals of Hawaii's eligible residents, to ensure they receive the benefits to which they are entitled, is one of the most important of our DHS missions.

Here are more pertinent facts underscoring the urgency for DHS to implement the EPOD modernization as soon as possible.

The federal government *encourages* states to modernize benefits processing so people do not have to apply in-person.

According to a federal study (www.ers.usda.gov/publications/efan03013/efan03013-2/efan03013-2appB.pdf), many people:

- Don't like visiting welfare offices;
- Don't want to take time off work;
- Have difficulty arranging transportation; and
- Are busy with child care or elder care.

Particularly informative is the SNAP 2010 Program Access Toolkit, a guide published by USDA to help states increase public access to nutrition cash assistance benefits (formerly called food stamps).

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On page 20 of the SNAP Toolkit, the federal government notes the need for State agencies to overcome certain "common myths and staff concerns" including:

For example, some State agencies find that workers are reluctant to conduct eligibility interviews over the phone because they believe clients are more likely to lie about information over the phone. State agencies can reassure workers that States with option have not reported an impact on error rates after the implementation of telephone interviews."

Also, on page 25 of the SNAP Toolkit, the federal government notes that for applicants who prefer face-to-face contact, they "will be able to go to community-based organizations where they can learn about SNAP and its application process...have [access to] computers, web-cams, fax machines, and scanners so applicants can complete the entire application or recertification process from these remote locations. Applicants can complete the face-to-face interview via webcam."

The SNAP Toolkit, on page 23, notes "Although some households eligible for SNAP may not have access to a computer with internet access, individuals can access public computers at local libraries, community centers, and community-based organizations."

The federal government praises the many advantages of call centers. For example, the SNAP Toolkit, on page 24, notes: "Call centers can increase program access by streamlining phone calls to local offices. Call centers can be used for any or all of the following purposes: reporting changes, processing alerts, handling participant phone calls, conducting callbacks, and performing certification or recertification interviews."

Also, the SNAP Toolkit continues, on page 24: "Call centers increase program access because applicants have one number to call for interviews and application questions. For call centers to increase program access effectively, SNAP households must know that they should call the call center and not their worker."

The SNAP Toolkit also describes the many advantages of using online applications, which DHS intends to have ready in time for our proposed EPOD implementation.

The SNAP Toolkit notes, on page 25, "As of July 2009, 21 States had statewide online applications... Online applications can increase program access to households who cannot easily get to a local office for an application, such as working households, households with difficulty obtaining transportation, households with disabled, etc. Additionally, online applications allow households to submit their application at any time." The SNAP Toolkit continues: "Online applications reduce the amount of time workers must spend completing data entry."

Each of these recommended approaches are essential parts of our proposed EPOD workflow redesign.

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In our March 5 letter responding to HGEA questions, DHS started with the consultation process in which we have been engaged since January 29. Due to the urgency of delivering timely benefits to needy customers, DHS has been developing a timetable and we will continue to refine it as adjust it, as appropriate, as we proceed with implementation of our proposed EPOD and concurrent RIF.

Our developing EPOD implementation plan addresses critical tasks, covering tasks for the time period from today – the date when we have notified HGEA of our intention to proceed with the EPOD and RIF – until October 1, 2010, which is when, we believe, we should be able to fully implement the transition of staff and operations to the two EPOD processing centers in Honolulu and Hilo. These tasks include but are not limited to:

- Identifying office sites at BESSD and MQD where there is space (due to vacancies, retirements and prior RIFs) to begin consolidating eligibility staff as part of a phased-in transition to EPOD.
- Identifying Applications Units in both BESSD and MQD that can begin implementing and critiquing EPOD workflow processes for determining eligibility. Using what we learn from these processes to finalize procedures, prepare training material and establish a training schedule.
- A similar process will be used for determining ongoing eligibility (including data updates, renewals and other case maintenance work) will be implemented in selected Sections/Units at BESSD and MQD.
- Teams will be formed to ensure that specialized processes are developed (e.g. processing applications that require special knowledge or for services that are not frequent requests). Currently, those eligibility determinations may be made by a select number of BESSD and MQD employees.
- As space allows, transition those BESSD and MQD staff who will join EPOD to central locations with their post-reorganization supervisors to handle a portion of the eligibility determinations being submitted to DHS using the EPOD redesigned workflow processes.

Telephone interview training was already provided to all BESSD eligibility staff statewide in October 2009. Additional interviewing scripts to further streamline the time it takes to conduct interviews are being developed by staff, and will continue to be refined as these tools are used and monitored to achieve maximum efficiencies on an on-going basis.

Please note, while DHS has not received any meaningful input about our proposed EPOD and RIF from HGEA, other than HGEA's insistence that DHS stop it or indefinitely delay it, DHS has received significant input from our staff.

HGEA continues to feign disapproval for DHS not engaging enough staff in developing EPOD. This is a strange contention, since public unions have complained in the past when State Directors and exempt managers have sought to communicate with subordinate staff, who are union-included members, about proposals to make changes affecting their working conditions.

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As previously explained, DHS refrained from contacting staff, who are included-HGEA members, to discuss our EPOD reorganization concept, due to it being inextricably linked with our proposed RIF of eligibility positions which, on advice of counsel, required that we first engage in consultation with HGEA before contacting its members. However, once you clarified at the February 23 legislative hearing that HGEA had no objection to DHS conferring with staff about our proposed EPOD reorganization, DHS began to gather input directly from staff and will continue to do so on an ongoing basis, both before and after the EPOD and RIF are implemented.

While we received some staff input similar to HGEA's comments to stop or indefinitely delay the EPOD and RIF, DHS also received constructive input from staff that will be incorporated into our transition planning. For example, both BESSD and MQD staff noted that there are a few processes that would benefit from special attention, developing detailed procedure modifications to prepare for incorporation into the EPOD. These processes will most likely be the last processes transitioned to the EPOD.

Another example is the suggestion of a phased-in transition, where we begin using EPOD processes with a number of MQD and BESSD Sections/Units to fine-tune the processes and learn from the staff about the essential areas that need emphasis in the training modules.

It was also suggested that we might want to make DVDs available on the Internet or at DHS offices that would further explain our eligibility application processes, client rights and responsibilities, and how to access information or provide frequently asked questions and answers for our customers.

These client educational tools, suggested by DHS staff, are currently being developed and will be refined on an on-going basis as part of the EPOD modernization strategies to improve timely customer access to DHS benefits.

There are numerous other suggestions that will also be explored further and incorporated into transition planning as we move forward with implementing the reorganization and RIF.

DHS will be training the trainers and consolidating eligibility staff into existing offices with vacant spaces, in order to quickly affect the changed workflow to increase worker productivity as soon as possible before the two EPOD processing centers are available for occupancy. This transitional roll-out will be occurring from now through no later than October 1, 2010, when we expect to be fully staffed at the two EPOD processing centers in Honolulu and Hilo.

As we said many times in our previous communications, there is an urgent need for DHS to move forward with the EPOD and RIF proposals, given the continuing increase in applications for and enrollment in public assistance programs such as Medicaid, welfare and nutrition benefits.

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Moreover, the need for DHS to reduce expenditures is greater than it was even a month ago. The State Senate is now requesting a 5 percent cut in our DHS budget, which would amount to a loss of \$37.4 million in State general funds. In addition, the State's \$1.2 billion budget gap recently grew by \$65 million, based on revised March 11 projections by the Council on Revenues through June 30, 2011.

Streamlining the benefits application process would provide solutions to the above challenges by improving customer service while saving money for taxpayers during the worst economic downturn in State history.

While it is regrettable that some eligibility staff would lose their jobs under the proposed EPOD reorganization and RIF, DHS must remain focused on our prime mission, which is providing timely, efficient and effective programs, services and benefits to the most vulnerable residents of Hawaii.

As shown in this letter and our March 5 letter, DHS has tried many other approaches to improve efficiency of eligibility operations, but we have only achieved small and unsustainable gains at higher cost to taxpayers.

As I mentioned, we hired an outside vendor on a temporary basis to help reduce the backlog of applications at MQD, but HGEA filed a grievance to stop this initiative and recently filed a notice of intent to arbitrate. We also temporarily assigned BESSSD Oahu eligibility workers to help reduce the backlog of nutrition benefit applications on Maui, but that was only a short-term fix.

Pursuing incremental changes is not the best strategy during a time when DHS is experiencing a surge in applications for public assistance and our State government is now confronting a nearly \$1.9 billion budget shortfall through June 30, 2011.

While we understand why HGEA did not like the last August 2009 RIF, which DHS and all other State Departments had to implement to reduce labor costs due to the worst economic downturn and State revenue deficits in Hawaii's history, DHS is compelled to point out the fact that some of HGEA's stated impacts from the last RIF are patently false.

For example, in its March 22 letter, HGEA contends "Existing Child Welfare Service and First-To-Work offices are already understaffed and overburdened due to recent cuts and layoffs." However, DHS caseload data proves the contrary.

Specifically, the First-To-Work (FTW) statewide caseloads from July 2007 to January 2010 show a **decrease of 12.28 percent**. This FTW decreased caseload consists of decreases in FTW cases occurring both before and after the last August 2009 RIF. For example, the FTW statewide caseload reduced by 7.84 percent from July 2007 to January 2008, and reduced by 1.09 percent from January 2008 to January 2009, and reduced by 3.78 percent from January 2009 to January 2010, for a total reduction of 12.28 percent from July 2007 to January 2010.

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Further, with the exception of Molokai, every Island's FTW units experienced either caseload reductions or no caseload increases after the staff who were laid off from the August 2009 RIF began leaving in December 2009. Specifically, the most recent caseload data on Oahu's FTW units from November 2009 to January 2010 shows no increased caseloads, Kauai's caseloads reduced by 18.18 percent, Hilo's caseload reduced by 0.35 percent, Kona's caseload reduced by 15.97 percent and Maui's caseload reduced by 4.74 percent. Only Molokai, after a caseload reduction of 13.04 percent from November to December 2009, experienced a slight caseload increase by 4.35 percent when adding the January 2010 caseload.

Clearly, our significant caseload reductions in FTW alone enable remaining clerical staff, on all Islands, the opportunity to be helpful to customers on their Islands who might need to be referred to community-based agencies from a pre-printed list of locations that can help them apply for DHS public assistance benefits.

Our significant caseload reductions in FTW also provide the opportunity for remaining clerical staff, on all Islands, to provide phone, fax, computer and web-cam access for customers on their Islands who might want to remotely contact the staff who are located at the two EPOD processing centers in Honolulu and Hilo.

DHS also disputes HGEA's contention in its March 22 letter that "The recent cuts and layoffs threaten the department's ability to comply with federal guidelines and timelines for eligibility determination." As fully described in this March 25 letter, the thing that is actually hampering the ability of DHS to comply with federal guidelines and timelines for eligibility determination is the old-fashioned way we currently handle eligibility functions, which is labor-intensive, costly and slow. This is why it is urgent to implement the EPOD modernization as soon as possible.

It is unfortunate that HGEA continues to strongly oppose the EPOD initiative and seems intent on continuing a misinformation campaign designed to frighten and mislead the public. HGEA and its supporters continue to make untrue statements such as:

- Customers could no longer receive in-person help;
- Customers would need a computer to obtain benefits;
- Customers who cannot speak English would be deprived of benefits; and
- Customers who call for assistance would become trapped in an automated phone system.

While it is understandable that HGEA is focused on preserving union jobs, DHS must remain focused on its goal of improving customer service without financially burdening the taxpayers who fund public assistance programs.

Instead of providing constructive feedback, HGEA is waging a statewide "anti-EPOD" campaign designed to confuse and frighten DHS staff and their families, advocates for the needy and especially the vulnerable customers we serve. Among the falsehoods spread by this campaign are that EPOD will:

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- Prevent customers from receiving in-person help when applying for benefits;
- Require customers to use a computer with Internet access to receive benefits;
- Trap customers in an automated phone system when they call DHS for help;
- Prevent customers who require translation services from receiving benefits; and
- Result in rampant fraud when customers apply for public assistance.

As detailed in this letter above, all of these contentions are false.

Unfortunately, HGEA remains adamant in its opposition to the EPOD instead of providing DHS with any constructive feedback. Even in your latest March 22 letter, you remark "We have not heard from anyone who supports the current reorganization plan and believes the state will benefit from its implementation." This remark is nearly identical to what you said at our meeting on February 26, when you said "No one we've talked to says this is better for workers and the State."

Despite the best efforts of HGEA to deceive the public about the EPOD modernization, many people are still able to perceive the truth. For example, a March 5 editorial in Pacific Business News, "Make Hawaii government efficient, don't raise taxes," articulates the issues clearly. As the editorial states: "Koller and her colleagues in the Department of Human Services are tackling 21st century problems with 21st century strategies. If her detractors have better solutions, let's hear them."

As explained in our January 29 and March 5 letters, DHS studied consolidated eligibility processing operations in other states to determine appropriate staffing levels for the two proposed EPOD processing centers in Hawaii. At this point, less than 230 positions would be eliminated to achieve our staffing target.

Our current system is outdated, labor-intensive, costly, inefficient and slow. Fewer employees would be needed with consolidated processing because:

- Customers would no longer be required to engage in repeated and inconvenient contacts with DHS staff;
- Supervisors would oversee a greater number of employees at the large EPOD facilities than they do now in smaller DHS offices across the Islands;
- Workflow would improve significantly in a production-type atmosphere that eliminates backlogs caused by the current "silo" system;
- Teamwork would be encouraged, not discouraged, under EPOD;
- Clerical staff would relieve the burden on eligibility staff to ensure that applications are completed with all required documents attached, which will reduce backlogs of pending cases and incomplete work;
- Eligibility workers would focus on one task at a time, on a rotating basis, which is more efficient than working on multiple tasks simultaneously.

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As explained in our January 29 consultation letters, the RIF/lay-off process, which is concurrent with and part of the proposed EPOD reorganization, is being undertaken by DHS due to both a lack of funding and a lack of work, as briefly described again below.

Given the unprecedented rapid and steep economic downturn since 2008, soaring State revenue shortfalls, and increased applications and enrollment in DHS public assistance programs, it is imperative that DHS change the way it conducts eligibility functions as soon as possible. DHS must produce significant improvement in customer service, timely and accurate work productivity, and general fund savings.

DHS has decided to achieve those goals by implementing a reorganization of eligibility functions statewide for its public assistance programs (excluding federal benefits under the Social Security Administration) by creating EPOD.

With the efficiencies resulting from the EPOD reorganization, the span of supervisory control will be significantly increased, as must be done, to handle higher caseloads more timely and accurately than under the current DHS organization and operation of eligibility functions. Under EPOD, customers will have fewer and more convenient contacts with DHS staff to obtain public assistance benefits, and customers will receive those benefits more timely and accurately than they do now.

EPOD efficiencies include, but are not limited to, accepting online and telephonic applications, specializing workflow into functional categories to which staff will be assigned, on a rotating basis, to focus on doing one type of task at a time, creating a highly efficient "production" type atmosphere, and moving cases along daily to prevent backlogs from new cases, pending cases and incomplete work. There will be less distraction from applicant and ongoing client calls to interrupt worker productivity because calls will be handled by an in-house call center to which eligibility workers will be assigned on a rotating basis.

Given worsening budget shortfalls, including the substantial reduction of revenue projections for the next fiscal year starting this July made by the Council on Revenues at its most recent meeting earlier this month, DHS does not have the option of expanding current levels of DHS positions, due to insufficient general funds, to maintain the current DHS organization and operation of eligibility functions, which is more labor-intensive, costly and inefficient than the EPOD reorganization. And, since the work itself will be easier to do as a result of the EPOD reorganization and workflow redesign, there will be a lack of work under the EPOD to support the current levels of DHS positions involved in eligibility functions, for which this reduction-in-force/lay-off process is appropriate.

In closing, due to the exigent and challenging circumstances we face, I have repeatedly emphasized the importance of moving quickly with consultation on the concurrent EPOD and RIF proposals by DHS. The needs of our customers are great and we cannot fail in our

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obligation to provide them with health care, food and other necessities in an efficient and timely manner.

Accordingly, DHS plans to fully implement the EPOD plan no later than October 1, 2010. We welcome HGEA's constructive input during the weeks and months ahead on how DHS can best carry out this vital and timely initiative.

Sincerely,



Lillian B. Koller
Director

c: Randy Perreira, Executive Director, HGEA
Nora Nomura, Deputy Executive Director, HGEA
DHS Personnel Office