

State makes ‘shockingly little progress’ in mending SNAP scandal

Written by By Joey Peters NM Political Report
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More than one year after three top state officials refused to answer questions in federal court about fraud allegations and nine months after a federal judge held their cabinet secretary in contempt of court, the state Human Services Department (HSD) appears to still be seriously mishandling how it processes federal benefits to New Mexico's poor.

This includes an apparent department directive instructing caseworkers to limit interviews with those enrolled in and seeking federal benefits and lie to their superiors about it.

Now, the advocacy organization representing plaintiffs in a decades-long lawsuit against HSD is asking a judge to impose monetary sanctions on HSD and its secretary, Brent Earnest. The call for sanctions comes over the department's alleged failures to meet federal guidelines on processing Medicaid and Supplemental Nutrition Assistance Program (SNAP) benefits.

Until the department comes into federal compliance with processing these benefits, the New Mexico Center on Law and Poverty wants the judge to fine Earnest \$100 a day.

In the meantime, poor New Mexicans are suffering, according to a legal memo filed in federal court this week by the Center.

“Eligible New Mexicans are without food and medical assistance because [HSD] has a backlog of tens of thousands of unprocessed cases,” the memo reads. “The vast majority of clients cannot get through by phone and systemic changes required by multiple court orders have not been enacted.”

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The current controversy dates to last spring, when the Center argued that HSD was failing to comply with a consent decree from the Debra Hatten-Gonzales v. HSD lawsuit. The lawsuit originally alleged the state failed to adequately process Medicaid and SNAP benefits. Its 1990 settlement set forth new guidelines through the consent decree that the state is required to follow to meet federal law.

The case once again propelled to the forefront last summer after nine employees in HSD’s Income Support Division were called to testify by the Center. Before federal court, the employees made shocking allegations of a longstanding department policy to falsify SNAP applications.

The workers alleged superiors told them to adding fake assets to emergency SNAP applications so the department could cut down on its backlog of SNAP cases to avoid getting in trouble from the federal government.

A federal judge agreed with the Center’s assessment last fall and held Earnest in contempt for failing to follow the consent decree. The court also appointed an independent “special master” to steer HSD into federal compliance.

But the state department has made “shockingly little progress” in righting its ship in the six months since the special master came on board, according to the memo.

Lawrence Parker, the special master and former Texas state administrator who District Judge Kenneth Gonzales picked last fall to oversee HSD’s handling of federal benefits, is expected to give recommendations to the court Thursday afternoon on how the department should proceed from here. Gonzales scheduled the status conference for the afternoon and required Earnest to attend.

An HSD spokesman, through an automatic email message, referred NM Political Report’s questions to a spokesman for Gov. Susana Martinez, who did not answer them before press time.

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MULTIPLE DEFICIENCIES

The Center’s latest memo reveals alleged systematic problems with how HSD responds to requests for help from some of New Mexico’s most vulnerable.

The Center’s memo lays out problems including:

—HSD’s lack of a functional phone system in its customer service call center for SNAP and Medicaid applicants and recipients. Currently, the call center answers just 35 percent of its calls from English language speakers and 19 percent of its calls from Spanish speakers.

—HSD own “illegal directives that restrict access benefits and instruct workers to misrepresent facts,” including one order to stop all SNAP and Medicaid interviews after 3:30 p.m. Another order “instructs workers to withhold information from applications” and “give false information about the client’s wish to reschedule the interview” to their superiors.

—The department’s proposed new SNAP regulations that “contain many errors and delete entire sections that explain verification requirements for non-citizens” in apparent violation of federal law.

—HSD overall lack of processing SNAP renewal applications in a timely manner, despite progress.

—The department’s delays on Medicaid applications, which continue to increase. Overdue Medicaid renewals, for example, more than doubled between January and early June from nearly 24,000 to almost 53,000 and then dropped to 38,000 by June 21.

—Two HSD administrators, Laura Galindo and Marilyn Martinez, remain employed with the

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department one year after asserting their Fifth Amendment rights numerous times in court by refusing to answer questions about their involvement in allegedly instructing employees to falsify emergency SNAP applications. Galindo is currently the department’s director of child support enforcement while Martinez is chief of the department’s financial services bureau in the administrative services division.

Perhaps most serious of these detailed allegations is the revelation of an internal HSD directive from April obtained by the Center.

‘ILLEGAL’ POLICY

The order, written by Customer Service Center Staff Manager Gwen Brubaker, instructs state employees to cease interviews and communications with Medicaid and SNAP recipients and applicants every day at 3:30 p.m. and to lie to the clients and their office superiors about the interview limits.

“We discussed in the manager’s meeting today that we are not going to do interviews after 3:30, effective immediately,” Brubaker wrote in the April email to staffers.

She went on to admonish employees for telling applicants the truth about the policy.

“We also discussed that we were not saying this to clients, but I have seen 3 emails go out to offices since that that state per directive/instructions interviews are not being done after 3:30,” Brubaker wrote. “Please make sure that staff are not saying this to the clients, including in emails to offices or in case notes.”

And instead of informing “the office” about the new policy, Brubaker instructed her workers to lie and “just say to the client that they are not available and to the office that the client has requested the interview to be rescheduled.”

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Brubaker ended her with “Thank you!”

Sovereign Hager, a staff attorney with the Center, sees a lot of problems with the directive.

“Off the bat, the policy is wrong. It’s illegal,” she said in an interview.

Hager added that apart from instructing state employees to lie, the policy to “reschedule” interviews causes some clients to “wait for months” to receive the federal benefits for which they are otherwise eligible.

“It’s just really a horrible tactic that’s dishonest,” she said.

It’s unclear if and to what extent HSD management was aware of or responsible for this policy.

CUSTOMER SERVICE PROBLEMS STILL APPARENT

A big part of HSD’s problems, according to the Center’s memo, is that the department doesn’t have enough staffers to meet its mission. A June email from HSD to the Center reveals the state has more than 100 vacancies in the department’s Income Support Division, which manages federal benefits for New Mexicans.

To fix problems with the customer service phone line, HSD contracted with Conduent, the company formally known as Xerox. It’s not clear when the contract, which does not show up in the state’s Sunshine Portal, will begin.

Hager questioned how effective this contract can be since federal law mandates that only public employees are allowed to work on SNAP benefits.

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“They can’t really do anything on people’s cases because they’re not state employees,” Hager said of Conduent.

Altogether, the poor customer service means “people get caught in a web of not getting answers to questions,” Hager said, and showing up at an HSD office in person is “a multi-hour wait.”

The department’s leadership has apparently suffered as well. After the department demoted ISD Director Marilyn Martinez, who refused to answer questions about her alleged involvement in systemic fraud last year by pleading her Fifth Amendment rights, it left her position unfilled for more than one year.

The Center also argues that HSD is wasting what limited resources it has on new and unneeded programs like requiring more Medicaid patients to pay co-pays for service.

The special master, in some ways, echoed this criticism. In March, Parker recommended HSD “cease all efforts to plan, develop or implement new programs, with the exception of programs required by state or federal agencies to meet requirements within regulations.”

It isn’t clear what, if any, decision Gonzales will make during or after the Thursday hearing.

Parker is ordered to serve as special master through the calendar year. If by then the court finds that HSD is still not in or on its way to federal compliance, the judge could appoint a federal receiver with much broader authority to come in and fix the problems.

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