No. 26-10419-G

United States Court of Appeals for the Eleventh Circuit

CHIANNE D., *ET AL.*,

Plaintiffs-Appellees,

v.

SECRETARY, FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION, *ET AL.,*

Defendants-Appellants.

Appeal from the United States District Court
for the Middle District of Florida,
No. 3:23-cv-00985 (Howard, J.)

PLAINTIFFS-APPELLEES' RESPONSE IN OPPOSITION TO APPELLANTS' TIME-SENSITIVE MOTION TO STAY INJUNCTION PENDING APPEAL

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INTRODUCTION

Without waiting for the district court's decision, as procedurally required, Defendants rush to this Court with unripe and inflated claims of irreparable harm. But to obtain the extraordinary relief sought, Defendants must establish at least a substantial case on the merits. They must show that their notices provide Medicaid enrollees with sufficiently detailed information to detect and correct errors in the State's eligibility decision. They have not done so. Defendants cherry-pick language from the notices, ignoring the convoluted structure causing Defendants' own witnesses to misinterpret them. They contend the required information is available elsewhere when it is not. For example, they claim enrollees can call the call center, but unrebutted evidence established that most callers cannot even reach someone. Defendants do not mention *Goldberg v. Kelly*, the leading Supreme Court case on the adequacy of public benefits notices, even though it "conflicts head on" with their position. Op.226 (n.77), 237.[1]

The district court's decision is meticulous. In a 270-page order following a six-day trial, it catalogues "the complete inadequacy and borderline

[1] "Op." refers to ECF 186, the Opinion under review. "ECF ___ at ___" refers to other district-court documents and page numbers. "Mot." refers to Appellants' March 4 stay motion filed in this Court. The trial transcript is cited by volume number, *e.g.* T(2) refers to Volume 2.

incomprehensibility of the notices and the inadequacy of the other resources identified." Op.268. This was not a "close call." *Id.* The evidence "inescapably leads to the conclusion that the State's notices are fundamentally insufficient to satisfy the requirements of due process." *Id*. Defendants' success would require overruling the court's substantial factual findings, an uphill battle they are unlikely to win. *Weinstein v. 440 Corp.*, 146 F.4th 1046, 1053 (11th Cir. 2025) (noting "findings of fact must stand unless we are left with the definite and firm conviction that a mistake has been made.").

Defendants have known for years their notices are flawed, cause confusion, and need updating. Yet, citing expense, they have repeatedly deferred making changes and, instead, promised, as they do here, that unspecified changes will happen sometime. Notably, after the district court's order, the estimated costs are significantly *less* than those already carefully considered by the court. Defendants ask this Court to circumvent the district court and excuse them from complying with the Constitution, simply because the costs are high. That is not—and cannot be—the law. Time is up. Defendants must fix their notices. The motion should be denied.

ARGUMENT

I. Defendants Have Not Complied with Rule 8.

Defendants waited six weeks to seek a stay with the district court yet demanded a decision in just seven days. ECF 193. Despite that "astounding" request, the district court acted within four days: granting partial relief, taking the remaining motion under advisement, and ordering Plaintiffs' prompt response. ECF 195 at 2. The partial relief moved Defendants' only impending deadline—to issue corrective notice to currently-terminated class members—from March 9 to April 3. *Id.* at. 3-4.

Rather than await a decision, Defendants rushed to this Court. On its face, the motion falls short of Rule 8's requirements. Defendants cite, but do not attach, "relevant parts of the record," such as the very notices at issue;[2] nor do they allege impracticability in awaiting the district court's decision. Fed. R. App. P. 8(a)(2)(A)-(B)). In bypassing the district court and presenting an incomplete record here, Defendants risk incongruent orders. Therefore, the proper course is to deny the motion. *See, e.g., Kendrick v. Sec'y, Fla. Dep't of Corrections*, No. 21-12686, 2022 WL 2388425, *2, n.4 (11th Cir., July 1, 2022); *Agudath Israel of Am. v. Cuomo*, 979 F.3d 177, 179 (2d Cir. 2020).

[2] Appellees can prepare a joint record, if needed, for this Court to resolve this motion.

II. Defendants Are Not Entitled to a Stay.

Defendants seek the extraordinary remedy of a stay based on cost. But a "stay is not a matter of right, even if irreparable injury might otherwise result." *Nken v. Holder,* 556 U.S. 418, 433 (2009). Defendants must "clearly establish[] the burden of persuasion as to each of the four prerequisites." *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). This includes, at minimum, "a substantial case on the merits." *State of Fla. v. Dep't of Health & Hum. Servs. ("HHS")*, 19 F.4th 1271, 1279 (11th Cir. 2021) ("It is not enough that the chance of success on the merits be better than negligible.") (citation and quote omitted). Because permanent injunctive relief is under review, the "narrow question" is "whether the state has made a strong showing that the district court abused its discretion." *Alabama State Conf. of NAACP v. Allen*, No. 25-13007, 2025 WL 3091433, at *1 (11th Cir. Oct. 30, 2025) (quote omitted).

A. Defendants' disregard of facts and misapplication of law presents no meritorious appeal, let alone a substantial one.

1. Defendants ignore the court's fact-finding about the notices.

The purpose of Medicaid termination notice is to protect health coverage by apprising individuals of the impending loss, so they can identify and correct errors in the decision or plan for the loss. *See Goldberg v. Kelly*, 397 U.S. 254, 267-68 (1970); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950);

see also Op.227 (collecting cases). The question here is whether Defendants' Medicaid income-termination notices achieve this basic goal. "[T]he answer is plainly, No." Op.207. Defendants routinely err in calculating financial eligibility, including miscalculating household size (which determines the applicable income limit), failing to disregard certain income, relying on outdated income data, and improperly terminating continuous coverage for children, pregnant and post-partum enrollees. Op.29-32, 143, 151-52, 162, 170, 197 (n.58), 244, 254 (n.89).

Defendants' notices contain none of the information needed to identify and challenge these errors: they do not specify the income amount or sources, the income limit applied, or the population group considered, even though each can change the outcome.[3] In many instances the notices do not even clearly identify whether anyone in the household is losing coverage. Op.150, 208-09.

Defendants do not meaningfully defend their notices. As the court explained, they "border on the incomprehensible," are "indecipherable," and the district court itself "was unable to make coherent sense" of them. Op.267-68. This is due, in part, to their convoluted structure which includes seemingly overlapping and contradictory sections, lacking "any discernable logic," and demanding "[t]he reader must sort through [a] morass," which "injects

[3] For additional detail about how income eligibility is determined, *see* Op.14-28.

ambiguity into the notice." Op.208-209. Indeed, Defendants' own witnesses have known for years about the notices' structural problems, Op.47, 252 (n.88) (they are "chunky," "do not flow," and require one to "read and read"), and they could not "consistently or definitively interpret" them. Op.208.

The notices' stated reasons make them more confusing. Some reasons used for income-terminations "do not inform the reader that financial ineligibility is the reason for the State's decision and often affirmatively mislead the reader about the decision that was made." Op.211. For example, Defendants' notices may give the reason, "You are receiving the same type of assistance from another program." Op.73-75. "This statement is both untrue and actively misleading. Receiving the same type of assistance is not a reason for the termination of benefits. And it is not true," because the individual is in fact losing Medicaid coverage. Op.211. Likewise, the statutory cites often "further confuse or mislead the recipient," by referencing "irrelevant or unhelpful legal authority." Op.213-14.

In their motion, Defendants select isolated sentences and phrases. For example, they note "the notice informs the recipient that the recipient's Medicaid benefits 'will end on' a date certain." Mot.15. True, the notices use the phrase "will end" followed by a date. But they do not specify *whose* coverage "will end." Rather, they state more generically "Your Medicaid benefits for the

person(s) listed below will end." *See, e.g.*, PX40, PX81, PX112, PX130. A reader "may understandably assume, as the Court did, that the eligibility decision reflected in each section is relevant to the individuals listed in that section. But this assumption is wrong." Op.209. Instead, notices include "seemingly random groupings" of individuals in each section, thus "indicat[ing] that benefits are ending for a person who was not previously receiving benefits," or "that benefits are ending for a person whose benefits are not in fact ending." Op.208-10. DCF witnesses admitted these sections frequently list individuals whose coverage is not ending. *See* Op.52, 185, 215; T(2) 86, 117:20-118:14; PX81.

Moreover, the lower court thoroughly addressed the insufficiency of the sentences cited by Defendants: "We have reviewed your eligibility for full Medicaid benefits and have determined you are not eligible because your income exceeds the limit for Medicaid income," or "YOUR HOUSEHOLD'S INCOME IS TOO HIGH TO QUALIFY FOR THIS PROGRAM." *See* Mot.15. First, Defendants' assertion is unsupported; the records shows the sentences are not reliably provided. *See* Op.69 ("[T]he Court has no evidence regarding whether this enhancement is functioning as intended."), 180-81 (describing PX121). Even if they were, these sentences do not supply sufficient information to detect an income-calculation error; "the State does not explain how the Medicaid beneficiaries … are supposed to know which statements to

focus on and which to ignore." *See* Op.214; 227-28. Nor can the sentences overcome the confusion caused by the misleading reasons and notice structure. *See* Op.212-15. Ultimately, the notices "can be described in many ways—confusing, vague, convoluted, antiquated, contradictory, inaccurate, and ambiguous—but they are unequivocally not an objectively reasonable form of notice." Op.218.

2. Defendants ignore the court's fact-finding about alternative information sources.

Rather than rely on the notices themselves, Defendants, citing *Arrington*, argue the requisite information is available elsewhere. However, "a close reading of *Arrington* highlights the inadequacy of the State's reliance on other sources of information." Op.229. Critically, the *Arrington* notices included three individualized dollar amounts which enabled recipients to "determine the timing and accuracy of their child support payments." 438 F.3d at 1349-50. If, after receiving this notice, recipients still had questions, additional resources were available including a hotline, website, and agency staff. *Id.*

The facts here are not analogous. "[U]nlike Arrington, the [notices] do not provide enough information to allow a recipient to independently assess the accuracy of the State's determination." Op.230. "Whereas in *Arrington*, parents could contact the state to ask questions about the case-specific information they

had received in their notice, here, recipients must contact the State *to obtain* that case-specific information in the first place." *Id.*

The court could have stopped there. But it painstakingly evaluated each information source. None stood up, to say the least:

The Call Center. Unrebutted evidence shows more than half of all call center calls are immediately disconnected. Op.91-93, 97-98, 100 (describing "blocked" calls). Those who make it to the queue face long wait-times. Op.91, 93, 100. The minority who get through are unlikely to get accurate information. Op.97-99, 233-34. The call center agents are not caseworkers who make eligibility decisions, they have "limited training," are "unlikely to detect mistakes," and made "egregious errors" on recorded calls played at trial. Op.98-99, 130 (n.45), 234 (n.81). Agents themselves can be misled by the notices, exacerbating the likelihood of inaccurate information. *See, e.g.*, Op.130, n.45. And the court credited Mr. Ramil's testimony: "he does not advise individuals to contact the call center … because 'they may sometimes come out more confused than they are going in.'" Op.98.

DCF Offices. As for offices, "the hours and locations … are so limited as to be impracticable." Op.233. Moreover, it is unreasonable to expect individuals, like Ms. Taylor, who are "[n]ewly postpartum and caring for a weeks-old infant," to visit a physical office. Op.151. Besides, individuals are not

informed of that option. Op.233. The record established office staff receive less training than most call center agents and are thus similarly likely to provide erroneous information. Op.106-07.

Policy Manual including Appendix A-7. Defendants claim documents designed for DCF's internal use—the Policy Manual and Appendix A-7—can sufficiently explain eligibility decisions. *See* Mot.18-20. The court rightly concluded the Manual "would be very difficult, if not impossible, for a lay person to decipher." Op.104. As for Appendix A-7, it uses unexplained acronyms, does not specify whether income limits are monthly, weekly, or another timeframe; and does not explain how to calculate the applicable income limit. Op.22-25. It thus "defies logic to suggest that a reader unfamiliar with Medicaid eligibility and the budget computation process could meaningfully apply it." Op.21-22. In fact, it was "[o]nly having heard a significant amount of testimony about and reviewed examples of, the application of this table during the bench trial, [that] the Court now understand[s] … Appendix A-7." Op.22.

DCF Website, Fact Sheets, and Brochure. The district court likewise concluded the website and linked documents cannot cure the notices. The website does not define "countable income' or 'family income,' nor does it identify, or link to, the income limits," or explain "where to find that information." Op.101-02. Neither does the Brochure. Op.103-04. The Fact

Sheets do not describe income rules or standards, but rather direct individuals to the Manual and Appendix A-7. *Id.* Even then, some versions contained broken or outdated links, and as described above, those documents themselves are inadequate. Op.22 (n.15).

***State and Federal Laws*:** Defendants' assertion that people can rely on state and federal statutes "defies reality," given their complexity. Op.236 (n.82). Moreover, the district court noted multiple, specific instances where those laws were "not always consistent with each other or current policy." *See* Op.108-09 (noting conflicts between state regulation and state statute regarding length of continuous post-partum coverage, between state code section and Appendix A-7 regarding income standards, and two examples of conflicts between state and federal statutes). The legal citations, when present, "routinely point[] … to rules which are inapplicable, inaccurate, or irrelevant.". Op.235-36.

Fair Hearings. Here, Defendants put the cart before the horse. Any additional information comes "only after an individual has made the decision to appeal. Thus, it comes too late in the process to provide the enrollee with the information she needs to decide whether to appeal." Op.232 (n.80). Nor do Defendants inform people of a supervisory review process. *Id.* Instead, Defendants discourage hearings by incorrectly threatening that individuals

"will" have to repay benefits.[4] And, if Defendants truly lack capacity to provide timely hearings to a small percentage of Medicaid enrollees simultaneously, *see* Mot.9-10, it cannot be deemed a means "reasonably certain to inform" Medicaid enrollees. *Mullane*, 399 U.S. at 315.

Actual Knowledge: Defendants seek to re-write the record regarding the enrollee witnesses—relying on isolated testimony that actually demonstrates their confusion. Mot.16, 20. Chianne D. testified that "I read this [notice] five different times and on five different conversations and five different phone calls. So no, I didn't understand it every time. Eventually did I? Yes." T(2) 22:1-3. Jennifer V. "thought that they were shifting us. I thought they were shifting her into a different -- I wasn't sure. I thought that maybe they were enrolling her in a different program, such as KidCare," and did not understand that Defendants were moving her daughter, A.V., to Medically Needy coverage. T(3) 111:23-5. Ms. Mezquita "called DCF because I wasn't sure of the reasons that were given on the notice or what they meant." T(3) 158:8-9. Those calls "did not provide clarification on the decision." Op.169.

More importantly, based on their testimony and demeanor, the court found each witness was confused: "Chianne D. had questions about why her

[4] While Defendants removed this language from termination notices, the threat that enrollees "will" have to repay benefits still appears in the fair hearing acknowledgement letter and other documents. Op.113-14, 232 (n.80).

income was too high, and what amount of income was reported," and "stayed awake late into the night … 'writing a question for every single thing that was on the notice.'" Op.130 (quoting T(2) 199-200), 135. Ms. Taylor "assumed at first that [her infant son] K.H. was still enrolled in regular Medicaid," and "did not understand" the phrase stating she "was receiving the same type of assistance from another program and assumed it was Medicaid… Ultimately Taylor could not be certain from the notice whether or not she or K.H. still had Medicaid benefits." Op.149 (quoting T(1) at 28, 57); *see also* Op.151. "Jennifer V. was confused about the conflicting messages between KidCare and Medicaid… It was unclear to [her] what was happening from these two" notices. Op.165. Ms. Mezquita "had no idea what the stated Designated Reason meant and did not know from what other program she was purportedly receiving assistance." Op.172, 175-76.

Defendants also fault witnesses for both requesting and not requesting fair hearings. Mot.16. But the enrollees' actions demonstrate the harms. Chianne D. abandoned her hearing precisely because—even after reviewing the notice and calling the call center five times—she never realized Defendants had mistakenly terminated *her* Medicaid. Op.143-44. Ms. Mezquita was, with counsel's assistance, able to correct her postpartum coverage error, but did not identify the error in her son's financial eligibility because, when the call center agents "did

not provide clarification on the decision … she accepted the finding." Op.169, 178-79. Ms. Taylor did not request a hearing because her notice threatened—incorrectly—she "will" have to repay benefits if she lost. Op.151. And when Jennifer V. declined to pursue a hearing, she did not know Defendants used outdated income and incorrectly calculated her household size. *See* Op.161-63, 166, 168.

Defendants' claim that these witnesses understood the eligibility decisions is implausible, but even choosing between two plausible interpretations is not clear error. *See Cooper v. Harris*, 581 U.S. 285, 299 (2017) ("the very premise of clear error review is that there are often two permissible—because two plausible—views of the evidence.") (quote omitted). This is particularly true when findings rest on witness credibility. *Weinstein*, 146 F.4th at 1053 ("This Court will not disturb the district court's credibility findings regarding the witness testimony it heard at trial.").

3. The court applied the correct legal standard.

Strikingly, Defendants ignore *Goldberg v. Kelly*, while asserting the court applied the wrong standard, even though "[t]he Supreme Court has held that due process principles 'require that a recipient have timely and adequate notice detailing the reasons for a proposed termination,'" which includes informing the recipient "'of the precise questions raised about his continued eligibility,' as well

as 'the legal and factual bases for [the state's] doubts.'" Op.219 (quoting *Goldberg* 397 U.S. at 267-68). *Goldberg* "conflicts head on" with Defendants position, yet they "make[] no attempt to argue that *Goldberg* does not apply to this case." Op.226 (n.7), 237. Defendants cannot succeed on the merits when they "[i]inexplicably" failed to "mention the Supreme Court[] … decision … lying at the heart of" this case. *See Friends of the Everglades, Inc. v. Sec'y of the U.S. Dep't of Homeland Sec.*, No. 25-12873, 2025 WL 2598567, at *4 (11th Cir, Sep. 4, 2025).

Regardless, the court addressed each case cited in Defendants' present motion, distinguishing them because they involved: (1) general, across-the board reductions in benefits mandated by a change in law (*Garret v. Puett*, 707 F.2d 930 (6th Cir. 1983) and *LeBeau v. Spirito*, 703 F.2d 639 (1st Cir. 1983)); (2) notices regarding applications for benefits issued at later stages in the proceedings, such as upon reconsideration, when an initial detailed, individualized decision was provided *and* the adequacy of that initial denial notice was not contested (*Jordan v. Benefits Review Bd. of U.S. Dep't of Labor*, 876 F.2d 1455 (11th Cir. 1983) and *Adams v. Harris*, 643 F.2d 995 (4th Cir. 1981));[5] or (3) a non-benefits case concerning pensions with "circumstances … markedly different than those

[5] Defendants cite *Gaines v. Hadi*, No. 06-60129-CIV, 2006 WL 6035742 (S.D. Fla. 2006), an odd choice. *Gaines* approved notices "far more individualized and fact-laden than the … notices upheld by the *Adams* and *Jordan* courts," which "allow[ed] Plaintiffs to identify factual errors." *Id.* at 18.

presented here" (*Hames v. City of Miami*, 479 F. Supp. 2d 1276, 1289 (S.D. Fla. 2007)). Op.215-17, 223-26. Defendants do not dispute this reasoning.

Defendants cite one case, *Jordan*, to argue the court "disregarded cases" about actual knowledge and duty of inquiry. Mot.20. But "[u]nlike *Jordan*," Defendants' notices "do not plainly and succinctly state the decision and reason … do not identify the requirements an enrollee must meet," and their "convoluted, vague, and confusing" construction stands "in stark contrast" to the "succinct checklist in *Jordan.*"[6] Op.216-17.

Moreover, precedent does not establish a duty of inquiry in these circumstances. While public information can sometimes sufficiently describe generally-available *procedures*—it cannot supply the inherently individualized *reasons* for a particular decision. Op.236-37. Moreover, "a number of courts have explicitly held that the State cannot satisfy due process by placing the burden on individuals to affirmatively seek out the reasons for their termination." Op.230-31 (collecting cases). Regardless, as described above, the court catalogued how Defendants purported additional information sources add confusion not clarity. In short, Defendants' merits claim must fail: even under their desired (but incorrect) legal standard their evidence does not stack up.

[6] *See also* Op.224 (n.76) ("the notices approved in *LeBeau* and *Garrett* are both far more detailed than the [notices] at issue here.").

B. Defendants do not demonstrate irreparable harm.

Defendants present a lengthy recitation of compliance costs. Yet "expend[ing] unrecoverable resources" is not *per se* irreparable harm, *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1327 (11th Cir. 2019), and "that injury is not enough to overcome the ... inability to show likelihood of success on the merits." *Id.* Defendants' cases are distinguishable. *See Friends*, 2025 WL 2598567, at *10 (movant was highly likely to succeed, where district court "[i]inexplicably . . . does not mention the Supreme Court's most recent decision about the statute lying at the heart of" that case); *Nat'l Insts. Of Health v. Am. Pub. Health Ass'n*, 145 S. Ct. 2658, 2659 (2025) (same); *Georgia v. President of the U.S.*, 46 F.4th 1283, 1302 (11th Cir. 2022) (considering costs of preliminary injunction which requires, without exception, "a substantial likelihood of success on the merits."). In any event, Defendants' self-serving and unreliable descriptions of "severe costs and burdens," do not constitute irreparable harm.

1. Cost of fixing the notices

Accepting Defendants' word, the cost to fix their notices is nominal: $116,686.64 for work related to notices for currently terminated individuals (824 hours) and $370,899.84 to modify notices for those currently enrolled (2,368 hours). Mot.7. Notably, these costs are substantially *less* than Defendants

asserted at trial (*compare* 28,000 or 12,000 hours). *See* ECF 196 at 10.[7] Moreover, these changes qualify for 90% federal reimbursement, Op.42, reducing Defendants' costs to less than $50,000, a tiny portion of their budgets.[8] These minimal costs leave room for Defendants' other projects. Mot.23-24.

Furthermore, Defendants' vague promise to "perhaps" update notices as part of their modernization efforts, Mot.23, cannot prop up claims of irreparable harm where they have "no immediate plans to alter its notice practices and there is no evidence the modernization project will correct the alleged deficiencies challenged in this lawsuit." Op.195 (n.57). Notably, Defendants' other modernization efforts have been largely cosmetic. ECF 173 at 67. Rather than counter these findings or offer any additional, detailed plans, Defendants, continue their unsubstantiated guarantees that fixes will come.

2. Cost of Medicaid coverage

Defendants' descriptions of "severe costs" from providing Medicaid

[7] As with the estimates at trial, there are reasons to suspect these too are overstated. Defendants have not presented support from Deloitte. Nor have they explained what the actual changes are, what alternatives were considered, or the underlying assumptions, which all impact the total cost. *See* ECF 196 at 9-10.

[8] The Medicaid budget for Fiscal Year 2024-25 was $33.4 billion. *See* Fla. Pol. Instit., Florida FY 2024-25 Budget Summary: Health & Human Services (Oct. 18, 2024), https://www.floridapolicy.org/posts/florida-fy-2024-25-budget-summary-health-and-human-services.

coverage to class members lack factual support, rest on speculation, and—for any actual costs Defendants may incur—are largely of their own making. To start, the declarations Defendants submit as evidence of the costs are sparse and offer second-hand knowledge. ECF 196 at 9; *HHS* 19 F.4th at 1292.

Furthermore, Defendants' asserted costs of coverage per enrollee, for both maintaining and reinstating coverage, continue to grow without explanation. Prior to trial, Defendants estimated the monthly bill for Medicaid coverage was $225.15 per person. ECF 196 at 14. At trial, it became $313.23. *Id.* Now it is $365.76 and derived from a new formula. *Id.* at 15. And here, as elsewhere, the federal government bears the majority of this expense. ECF 193 at 8; Mot.8.

Defendants may also be inflating the reinstatement population. They assert "approximately 1.2 million people have been terminated from family-related Medicaid due to income since March 31, 2023," ECF 193-3, ¶ 4, without stating how many "were terminated … and *have not been reinstated*." Op.272 (emphasis added); *compare* T(5)176:21-177:18 (trial data excluded individuals who regained Medicaid). Defendants do not specify whether this number is unduplicated or cite any data. ECF 193-3. It could be significantly lower. At a minimum, Defendants' imprecision raises important, unprobed questions.

Moreover, if Defendants issue corrective notices by April 3, they do not have to reinstate coverage *to anyone*. That deadline has been extended once. ECF

195 at 2. It is certainly plausible it could be extended again.[9] Regardless, Defendants concede they can accomplish these tasks by April 29. Mot.9. Thus, even without another extension, the reinstatement obligation will last less than 30 days—hardly representing "staggering financial cost." Mot.10.

For those currently eligible whose coverage must be maintained, Defendants largely control that timeframe, but leave open obvious questions. For example, Defendants do not convert the 2,638 hours of work to calendar time, giving no indication how long a pause will last. The record gives some hints: Defendants already pay Deloitte for 3,150 hours each quarter and a change requiring 500 hours was completed in a month. Op.188-89. That suggests this 2,638-hour change could be completed in approximately three to six months. And if, as they claim, Defendants can accomplish the IT work, batching, and mailing corrective notices to terminated class members by April 29, why can they not do the same for currently enrolled? ECF 196 at 12.

Instead, Defendants inexplicably sit idle on the administrative approval processes they attest are a necessary first step for fixing the notices. They complained about these processes in their district court stay motion over 15 days ago. *Compare* ECF 193 at 6-7 *with* Mot.7. The court ordered relief three months

[9] This favors awaiting the stay decision from the district court.

ago. And 27 months have passed since the district court warned it "was going to be hard pressed to conclude anything other than the notices are bad and need to be fixed." ECF 64, 4:24-5:2. These processes are feasible and the Florida legislature has even offered help. *See*, *e.g.* ECF 196 at 13, n.5, 16. Why then is there no indication in the instant motion they have started this work? Mot.7. Defendants cannot deliberately delay and then benefit from their self-inflicted harm. *See Banks v. Trainor*, 525 F.2d 837, 842-43 (7th Cir. 1975) (rejecting concern the state is "presently forced to pay approximately 1.6 million dollars per month in [excess] food stamp benefits" because it could be "speedily remedied by their compliance with the modified injunction").

3. Defendants' staffing burdens are unavailing.

Defendants claim they are inadequately staffed to handle anticipated hearings requests from previously terminated class members. Mot.5, 9-10. This concern is unripe. Defendants' request to waive the 90-day timeline to resolve hearings remains pending with the district court. ECF 195 at 2. The concern is also speculative. The record shows many hearing requests are resolved at the supervisory review stage by DCF regional offices decreasing demand on hearings office staff Op. 115. And the concern disregards Defendants' existing legal obligations. The record suggests Defendants' inadequate notice artificially suppressed the number of hearings requested, impacting the number of hearings

office staff employed. *See, e.g.*, Op.66 (n.25). Being ordered to employ enough staff to adequately handle fair hearings—their constitutional and statutory obligation— is not irreparable harm; it is the opposite. *See Friends*, 2025 WL 2598567 at *10 (irreparable harm can occur where states are *prevented* from effectuating duly enacted law).

C. The balance of the equities favors Plaintiffs.

The third and fourth factors—harms to the non-movant and the public interest—merge when the government is a party. *HHS*, 19 F.4th at 1293. These strongly counsel against a stay.

The parties agree upholding the law supports the public interest. Mot.21. But "allowing the State to continue terminating benefits in violation of the law undermines, rather than supports, the Medicaid Act," and Constitution. Op.252-53; *see also Democratic Exec. Comm.*, 915 F.3d at 1327 ("[P]ublic interest is served when constitutional rights are protected."). Even if the injunction did impose high costs, Defendants fail to "cite any case where a court has found such cost arguments to outweigh the harm caused by an ongoing unconstitutional policy or practice." Op.249.

Far from disregarding Medicaid's income requirements, the injunction ensures they are correctly applied. The court was "convinced a significant risk of error exists throughout the [income-eligibility] process," and documented

multiple systemic errors. Op.30-32; 254 (n.89); 244 (n.85). "[T]his is precisely the point of providing adequate notice so that . . . errors can be detected and corrected before eligible recipients lose the vital medical benefits to which they are entitled." Op.254. Moreover, "the State cannot fail to provide the notice that recipients need in order to detect errors and then assert that adequate notice is not necessary because more recipients did not detect the errors." Op.254, n.89.

Nor does maintaining coverage pending adequate notice violate the Medicaid Act: in fact, regulations expressly permit federal funding in these circumstances, eliminating any audit concerns. *See* 42 C.F.R. §§ 431.250(b); 431.231(c)(1); Op.252, 260-63. And the record shows at least one other state has taken similar steps. *See* Op.9 (describing PX241), *contra* Mot.21-22.

Defendants' other asserted burdens do not tip the equities in their favor. The inadequate notices cause individuals to churn on and off coverage now. *See* Op.124-88. The existing churn and widespread confusion caused by the current notices dwarfs any possible confusion from short-lived reinstatement. *Compare* Op.245 *with* Mot.4-5, 11. Further, Defendants can minimize any risk of confusion by ensuring that corrective notices announcing reinstatement are themselves clear and comprehensible. Further, Defendants' complaint about a 35-year-old computer system boils down to an argument the public should continue to bear the costs of an outdated system until Defendants choose to fix

it. Mot.2, 24-25. And, contrary to Defendants' assertions, the record shows the notice templates are not that old and can be enhanced without a complete system overhaul. Op.44, 248.

Critically, the injunction prevents otherwise ongoing irreparable harm to the class: loss of essential health coverage, stress, and lost time trying to decipher notices. Op.243-46. Defendants do not acknowledge these harms, let alone weigh them against the State's purported burdens. The relevant question is not *whether* there are costs, but *who* bears them. *See* Op.247-54. Given the longstanding nature of their clear constitutional violation, Defendants, not Medicaid enrollees, should bear that burden.

CONCLUSION

For the foregoing reasons, the motion should be denied.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), undersigned counsel certifies, in reliance on the word count of the word-processing system used to prepare this document, that this response contains 5,192 words and therefore complies with the type-volume limitation in Federal Rule of Appellate Procedure 27(d)(2)(A).

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