

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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M.K.B., O.P., L.W., M.A., MARIEME :
DIONGUE, M.E., P.E., ANNA FEDOSENKO, :
A.I., L.A.M., L.M., DENISE THOMAS, :
and J.Z., on their own behalf, and on :
behalf of their minor children and :
all others similar situated, :

Plaintiffs, :

-v- :

05 Civ. 10446 (JSR)

ORDER

VERNA EGGLESTON, as Commissioner of :
the New York City Human Resources :
Administration; ROBERT DOAR, as :
Commissioner of the New York State :
Office of Temporary and Disability :
Assistance; and ANTONIA C. NOVELLO, :
as Commissioner of the New York State :
Department of Health, :

Defendants. :

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JED S. RAKOFF, U.S.D.J.

Pending before the Court is plaintiffs' motion for a preliminary injunction. The Court finds it likely, based on the voluminous submissions of counsel thus far, that plaintiffs will prevail against the various legal defenses raised by defendants. See, e.g., Freedom Holdings, Inc. v. Spitzer, 408 F.3d 112 (2d Cir. 2005). Accordingly, plaintiffs are entitled to any provisional relief necessary to avoid irreparable harm. See id.; cf. Cincotta v. N.Y. City Human Res. Admin., 2001 U.S. Dist. LEXIS 11457 (S.D.N.Y. 2001) (citing cases). A memorandum detailing the reasons for these determinations will issue following the evidentiary hearing discussed infra.

Through the admirable cooperation of counsel, defendants have voluntarily agreed to undertake certain measures sought by the plaintiffs. So, essentially on consent, plaintiffs' motion for a Preliminary Injunction is hereby granted as to the following:

(1) Defendant Verna Eggleston (the "City Defendant") is ordered to publish, by March 8, 2006, a revised Policy Bulletin concerning the Human Resource Administration's ("HRA") responsibility to undertake a Medicaid Disability Review where necessary to establish eligibility for food stamps. See City Def. Letter Br. dated Feb. 8, 2006 ("City Br.") at 1; Declaration of Seth Diamond, dated Jan. 24, 2006 ("Diamond Decl."), at ¶ 4; see also General Information System Message 06MA0005, attached to Defs. Doar and Novello's Letter Br. dated Feb. 8, 2006 ("State Br.").

(2) City Defendant is ordered to modify, by April 28, 2006, HRA's benefits administration computer system ("POS") to recognize through a "code" the category of battered aliens who hold an I-130 petition and present proof of domestic violence. See City Br. at 3; Diamond Decl. at ¶ 3.

(3) City Defendant is ordered to publish, by February 28, 2006, an interim Policy Bulletin directing workers to refer all applications by battered qualified aliens (and PRUCOL aliens, see Diamond Decl. at ¶ 2), to the Job Center's designated subject matter experts for handling, and to train staff, in March 2006, to comply with this interim Policy Bulletin. See City Br. at 3; Diamond Decl. at ¶ 2.

(4) City Defendant is ordered to publish, by February 28, 2006, an interim Policy Bulletin that provides instructions on opening the cases of those battered qualified aliens to whom the United States Custom and Immigration Service (USCIS) will not issue Alien Registration numbers, and to train staff, in March 2006, to comply with this interim Policy Bulletin. See City Br. at 3; Diamond Decl. at ¶ 2.

(5) City Defendant is ordered to publish, within four weeks of the implementation of the modification to the POS system described in (2), a revised Policy Bulletin concerning the handling of battered qualified aliens and PRUCOL aliens, and, to train staff, during the month following its publication, to comply with the revised Policy Directive. See City Br. 3; Diamond Decl. at ¶ 5.

(6) City Defendant is ordered to establish, by February 28, 2006, an informal relief system for non-citizen applications, if such applications are not already covered by other informal relief systems implemented in connection with other litigation, through which Plaintiffs' counsel may contact a designee of City Defendant on behalf of plaintiffs or members of the proposed class whose eligibility has been erroneously assessed. See City Br. at 4.

(7) State Defendants are ordered to remove, by April 1, 2006, the requirement that an alien registration number be inputted when entering the "B code." See State Br. at 1.

(8) State Defendants are ordered to revise, by March 8, 2006, the language of the notice denying benefits to include battered qualified aliens among the list of immigration statuses that may qualify immigrants for public benefits. See id.

(9) State Defendants are ordered to release, by March 22, 2006, an issuance regarding eligibility requirements for aliens who are victims of domestic violence and to attach an updated version of its document "LDSS-4579: Alien Eligibility Desk Aid." See id. at 2.

In addition, plaintiffs ask the Court to enter an order directing defendants to undertake immediately certain further relief,¹ their entitlement to which they claim is uncontested, and

¹Specifically, plaintiffs ask the Court to order defendants to (1) change, by April 28, 2006, the question in POS that asks if a battered qualified alien has a petition that "sets forth a 'Prima Facie Case,'" see Pls.' Letter Br. dated Feb. 13, 2006, at 2, ¶ 2; (2) investigate why POS caused many of plaintiffs' and declarants' cases to "error out," see id. at 2, ¶ 3; (3) change, by April 28, 2006, the list of documents from which workers must choose to open a case for a person who is PRUCOL to reflect the updated list of documents contained in a recent State DOH policy memorandum, see id. at 2, ¶ 4; (4) publish, by February 28, 2006, a Policy Bulletin explaining the proper procedures for referring an immigrant to the Social Security Administration and explaining that a Social Security number is not required for the receipt of fully State and locally funded benefits, and train workers on this new Policy Bulletin, see id. at 3, ¶ 5; (5) issue written notices when (a) one or more family members are accepted for benefits and one or more are denied due to immigration status; and (b) a proposed class member asks to be added to an open case; publish, by February 28, 2006, a Policy Bulletin on these issues;

advise the Court that they continue to seek all the relief set forth in their Notice of Motion (except the relief requested in II.B and III.A of the Notice of Motion, which plaintiffs no longer seek on a preliminary basis). See Pls.' Letter Br. dated Feb. 13, 2006, at 3-4. The Court defers ruling on all these further requests for relief until after the evidentiary hearing, which will be held at 10 a.m. on Wednesday, March 1, 2006. Counsel are directed to call Chambers on Friday, February 17, 2006, to discuss what additional discovery, if any, will be permitted in advance of the evidentiary hearing.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
February 16, 2006

and train staff, in March 2006, concerning the Policy Bulletin, see id. at 3, ¶ 6.