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9 Attorneys for Plaintiffs

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11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13
14 RALPH COLEMAN, et al.,

15 Plaintiffs,

16 v.

17 GAVIN NEWSOM, et al.,

18 Defendants.

Case No. 2:90-CV-00520-KJM-DB

**STIPULATION AND ORDER
PURSUANT TO MAY 7, 2020 ORDER
CONTINUING DSH EVIDENTIARY
HEARING**

Judge: Hon. Kimberly J. Mueller
Date: May 19, 2020
Time: 10:00 a.m.

1 On April 10, 2020, after holding an ongoing series of status conferences addressing
2 the impact of the coronavirus pandemic on the *Coleman* class and Program Guide
3 compliance, this Court set an evidentiary hearing for April 21, 2020 to address the issue of
4 class member access to DSH inpatient hospital care. ECF No. 6600 at 4. On April 15,
5 2020, Defendants filed a motion for reconsideration or clarification of the order setting the
6 evidentiary hearing. *See* ECF No. 6612.

7 On April 17, 2020, the Court continued the evidentiary hearing to May 19, 2020, in
8 light of the parties' stipulation to continue the hearing subject to close monitoring in the
9 interim by the Special Master of all referrals, rejections and completed transfers to and
10 from the DSH inpatient programs. ECF No. 6622 at 3.

11 On April 24, 2020, the Court confirmed the May 19, 2020 evidentiary hearing.
12 ECF No. 6639 at 11. In doing so, it "clarified that, with the exception of a temporary
13 modification to include COVID-19 screening, the *Coleman* Program Guide requirements
14 for transfer of class members to inpatient DSH hospital beds are in full force and effect
15 unless and until they are modified by order of this court." ECF No. 6639 at 6. The Court
16 accordingly ordered that:

17 1. Program Guide requirements for transfer of class members to
18 DSH inpatient hospital beds are temporarily modified to include COVID-19
19 screening in accordance with the protocols presented to this court and agreed
20 upon by the parties as cited above.

21 2. In all other respects, the Program Guide requirements for
22 transfer to DSH inpatient hospital beds remain in full force and effect unless
23 and until modified by order of this court.

24 3. Defendants shall cooperate fully in the Special Master's close
25 monitoring of transfers to DSH inpatient programs until May 19, 2020, so
26 that he is able to fully advise the court and the parties whether defendants are
27 in compliance with this order and applicable provisions of the Program
28 Guide.

1 ECF No. 6639 at 11.

2 On May 7, 2020, the Court granted in part and denied in part Defendants’ motion
3 for reconsideration or clarification. In doing so, the Court stated that it would entertain a
4 stipulation of the parties, approved by the Special Master, to continue the hearing for an
5 additional period not to exceed thirty days “[i]f the parties agree that defendants are
6 following the requirements of the court’s April 24, 2020 order.” *Id.* In the event of such
7 an agreement, the ensuing 30-day period would be utilized to permit the Special Master “to
8 monitor whether the necessary compliance has taken hold under the current
9 circumstances.” *Id.*

10 In recent weeks, the parties have met and conferred on a number of occasions under
11 the supervision of the Special Master and exchanged documents and information related to
12 DSH access in light of the coronavirus pandemic, including information from the Special
13 Master’s experts overseeing monitoring of the issues pursuant to the Court’s April 24,
14 2020 Order.

15 Plaintiffs agree that Defendants’ current processes for transferring class members to
16 DSH hospital beds are consistent with Program Guide requirements, subject to temporary
17 modifications to permit COVID-19 screening consistent with this Court’s April 24, 2020
18 Order. The parties further agree that the current procedures, while adequate in practice,
19 are not now fully captured in Defendants’ written guidelines. Defendants have agreed,
20 under the supervision of the Special Master, to update their guidelines to make clear that
21 no additional clinical criteria will be imposed on top of existing Program Guide
22 requirements aside from COVID-19 screening and consideration of individualized
23 COVID-19 risk factors affecting potential patient transfers to DSH.

24 Accordingly, the parties agree that the May 19, 2020 evidentiary hearing should be
25 continued for 30 days, subject to close monitoring by the Special Master of all referrals,

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1 rejections, and completed transfers to and from DSH inpatient programs to ensure
2 necessary compliance. See ECF No. 6638 at 11; ECF No. 6660 at 2.

3 The Special Master has reviewed and approves this stipulation.

4 IT IS SO STIPULATED.

5

6 DATED: May 13, 2020

Respectfully submitted,

7

ROSEN BIEN GALVAN & GRUNFELD LLP

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By: /s/ Lisa Ells

9

Lisa Ells

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Attorneys for Plaintiffs

11

12 DATED: May 13, 2020

XAVIER BECERRA

13

Attorney General of California

14

By: /s/ Kyle Lewis

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Kyle Lewis

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Deputy Attorney General

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Attorneys for Defendants

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ORDER

20 Pursuant to the foregoing stipulation of the parties, and good cause appearing, IT IS
21 HEREBY ORDERED that:

- 22 1. The stipulation of the parties is approved, with the understanding defendants are
23 working, under the supervision of the Special Master, to promptly update their
24 guidelines to make clear no additional clinical criteria will be imposed on top of
25 existing Program Guide requirements aside from COVID-19 screening and
26 consideration of individualized COVID-19 risk factors affecting potential
27 patient transfers to DSH.

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2. The evidentiary hearing set for May 19, 2020 at 10:00 a.m. is CONTINUED to June 25, 2020 at 10:00 a.m.
3. The Special Master shall continue his close monitoring of all referrals, rejections, and completed transfers to and from DSH inpatient programs to ensure compliance with this court's April 24, 2020 order. *See* ECF No. 6639¹ at 11; ECF No. 6660 at 2.
4. The court will entertain a stipulation of the parties, approved by the Special Master, to continue the hearing for an additional period not to exceed thirty days if the parties agree defendants are continuing to follow the requirements of the court's April 24, 2020 order.

DATED: May 18, 2020.



CHIEF UNITED STATES DISTRICT JUDGE

¹ The typographical error in the citation to the April 24, 2020 order at 4:2 of the stipulation is corrected from ECF No. 6638 to ECF No. 6639.