

Gerald S. Hartman
Drinker Biddle & Reath LLP
1500 K Street, N.W.
Washington, DC 20005-1209

Re: Grant from the Barbara McDowell and
Gerald S. Hartman Foundation

Dear Mr. Hartman:

We are pleased to provide the following semi-annual report of the work performed on the case for which the Foundation grant was provided.

As described in our proposal, NCLEJ works to ensure that low-income families can access critical income and work supports during this period of sustained economic crisis. In the wake of layoffs, reduced earnings, and depleted savings, low-income families increasingly turn to the promised safety net, such as food stamps, Medicaid, cash assistance, and unemployment insurance. However, faced with deepening need, these families all too frequently find closed doors, unconscionable delays, and erroneous denials. All too often, the systems intended to serve as the stop gap in the event of an economic catastrophe are overwhelmed with reduced staffing, antiquated computer systems, conflicting eligibility requirements, and excessive paperwork.

Delays in processing can reach months, and tens of thousands of eligible households either give up entirely or endure long waits. We sought support for our work in *Davis v. Henneberry*, a Colorado case to enforce federal and state mandates to process applications and redeterminations for Medicaid, CHIP, and food stamps in a timely manner for several reasons. First, among numerous poor performing states, Colorado has consistently performed more poorly than most in virtually all measures relating to the timely and accurate delivery of benefits to needy families. Second, the delays and inaccuracies in processing have impacted all state administered benefit programs, including cash assistance, Medicaid, and food stamps.. Third, the causes of the problems include poor management of the county administered system by state supervisors, a dysfunctional computer system (CBMS), and the lack of reliable monitoring tools.

While we had secured a consent decree that required the State Departments of Human Services (DHS) and Health Care Policy and Financing (HCPF) to achieve compliance with timely processing requirements, the requirements of the decree have not been met, and we were moving for contempt and enforcement against one or both agencies when the grant was provided. In our request, we also noted that we would be prepared to seek relief that ensures that the agencies adopt more effective policies and practices to process applications, determine eligibility, make timely decisions, and monitor performance. In addition, we committed to push for effective oversight of the local county offices to which the agencies have delegated part of the application processing obligation.

We are pleased to report significant progress on all fronts. During this period, NCLEJ reached and filed with the court an amended settlement agreement with the DHS, which is responsible for cash assistance and food stamps. The settlement agreement, among other things, requires the agency to reach targets by certain dates for timely processing of cash assistance and food stamp applications. This agreement comes on the heels of new efforts by DHS to (a) streamline the eligibility process to improve access and improve service; and (b) most significantly, to submit to a court appointed special master who will be responsible for, among other matters, holding such hearings as he deems necessary and appropriate and preparing a report that shall be filed with the Court, which includes findings of fact, conclusions of law, and the corrective actions required of Defendant. Moreover, DHS has agreed that it cannot challenge the findings of fact as to its non-compliance or the causes of its failure to adhere to law. Finally, the amended settlement imposes strict time frames for improvements with numerical goals that must be met every six months.

We then used the DHS settlement as a template for negotiations with HCPF and are pleased to report that a proposed settlement with virtually all of the same provisions, but applied to the processing Medicaid and CHIP cases, has been submitted to the Court for approval. Plaintiffs' participation in ensuring the timely and accurate processing of Medicaid applications and the systemic improvements necessary to achieve that outcome is particularly critical since Colorado must gear up for the roll out of health care reform. As part of the implementation of the new settlement as well implementation of health care reform, Colorado will increasingly have to take responsibility for Medicaid application processing.

Certainly, work will need to be done to oversee the proposed settlements and to work out several open issues. NCLEJ staff will be finalizing the settlements and engaging in monitoring and further negotiations as necessary over the next months.

During the report period, we expended the grant on senior counsel with experience in both litigation and with the proper operation of human service programs. Time was expended as follows:

Marc Cohan - 55 hours
Mary Mannix - 47 hours
Petra Tasheff - 25 hours