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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MONICA NAVARRO PIMENTEL,
individually and on behalf of a class of similarly
situated persons,

Plaintiff,

v.

SUSAN DREYFUS, in her official capacity as
Secretary of the Washington State Department
of Social and Health Services,

Defendant.

NO. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

CLASS ACTION

I. PRELIMINARY STATEMENT

1. Plaintiff is an indigent, legal immigrant who needs and receives state-funded Basic Food benefits under the Food Assistance Program for Legal Immigrants (FAP).¹ She brings this class action on behalf of herself and others similarly situated against Susan Dreyfus, in her official capacity as Secretary of the Washington State Department of Social and Health

¹ DSHS regulations and guidance refer to state-funded food assistance as both state-funded Basic Food and as the Food Assistance Program for Legal Immigrants (“FAP”); both terms are used here interchangeably. The Washington State Basic Food Program (“Basic Food”) is a joint federal and state food assistance program discussed more fully below.

1 Services (“DSHS” or the “Department”) to prevent the State of Washington from eliminating
2 the Food Assistance Program for Legal Immigrants and terminating their state-funded Basic
3 Food benefits on February 1, 2011.

4 2. This lawsuit is brought pursuant to 42 U.S.C. § 1983 on the grounds that the
5 Secretary of DSHS, through her actions of eliminating the Food Assistance Program for Legal
6 Immigrants and terminating Plaintiff’s and other class members’ state-funded Basic Food
7 benefits solely to save money, while continuing to provide similar benefits to U.S. citizens and
8 some aliens under the Washington Basic Food Program with state and federal funds has
9 violated the Equal Protection Clause of the Fourteenth Amendment to the United States
10 Constitution. Plaintiff also challenges the notices that the Department sent to more than 10,350
11 Basic Food Households terminating or reducing their food assistance effective February 1,
12 2011 as these notices were constitutionally inadequate and violate the Due Process Clause to
13 the Fourteenth Amendment.
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15

16 **II. JURISDICTION AND VENUE**

17 3. This Court has jurisdiction under 28 U.S.C. § 1331, because this action arises
18 under the laws of the United States, and 28 U.S.C. § 1343(3) and (4), which confer on the
19 federal district courts original jurisdiction over all claims asserted under 42 U.S.C. § 1983 to
20 redress deprivations of rights, privileges, or immunities guaranteed by Acts of Congress and the
21 United States Constitution.
22

23 4. Plaintiff seeks declaratory, injunctive, and other appropriate relief pursuant to 28
24 U.S.C. §§ 2201 and 2202, 42 U.S.C. § 1983, and Fed. R. Civ. P. 23, 57, and 65.
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1 **IV. CLASS ALLEGATIONS**

2 8. Plaintiff seeks to maintain this action under Fed. R. Civ. P 23(a) and 23(b)(2).
3 For the purposes of her equal protection claim, she asks the Court to define the class as all
4 Washington state residents who (1) were receiving state-funded Basic Food benefits under the
5 Food Assistance Program for Legal Immigrants and received notification that their food
6 assistance was being terminated or reduced effective February 1, 2011 because there was no
7 funding for the program; or (2) in the future would be eligible for the Washington State Basic
8 Food Program, but for the fact that they do not meet the citizenship and alien status
9 requirements of WAC 388-4224-0020 and who are either qualified aliens or Permanently
10 Residing Under Color of Law (PRUCOL) in the United States as defined in WAC 388-424-
11 0001. For the purposes of her due process claim, Plaintiff asks the Court to define a subclass,
12 consisting solely of those class members who fall within the first category of class members.
13

14 9. Each of the prerequisites to a class action enumerated in Fed. R. Civ. P. 23(a) is
15 satisfied by the proposed class and subclass.
16

17 10. **Size of Class.** The size of the class and subclass is in excess 10,350 households,
18 comprised of more than 30,000 persons. Approximately 14,350 persons in these households
19 will no longer be eligible for state-funded, Basic Food benefits if the Food Assistance Program
20 for Legal Immigrants is terminated on January 31, 2011.
21

22 11. **Joinder.** Joinder is impracticable given the size of the class and subclass, the
23 indigence of class and subclass members, the language and cultural barriers class and subclass
24 members face in seeking legal representation and filing individual lawsuits, the geographic
25 dispersion of class and subclass members, and the fact that the class includes future, unknown
26 class members.

1 12. ***Common Questions of Law and Fact.*** This action requires a determination of
2 questions of law and fact that are common to the class and subclass, including but not limited
3 to: 1) whether DSHS's elimination of the Food Assistance Program for Legal Immigrants and
4 the termination of Plaintiff's and other class members' state-funded, Basic Food benefits while
5 continuing to provide Basic Food benefits to U.S. citizens and certain qualified aliens who meet
6 the requirements of WAC 388-424-0020 violates the Equal Protection Clause of the Fourteenth
7 Amendment to the United States Constitution; 2) whether the notices that DSHS sent subclass
8 members terminating or reducing their food assistance effective February 1, 2011 were
9 inadequate and violated the Due Process Clause of the Fourteenth Amendment of the United
10 States Constitution; 3) whether Plaintiff, class, and subclass members are entitled to declaratory
11 relief under 42 U.S.C. §1983; and 4) whether Plaintiff, class, and subclass members are
12 entitled to temporary, preliminary, and permanent injunctive relief.
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15 13. ***Typicality and Adequacy of Class Representative.*** The claims of Plaintiff
16 Navarro Pimentel are typical of the claims of the class and subclass and each will fairly and
17 adequately represent the interests of the class and subclass. Plaintiff alleged that the State of
18 Washington's decision to eliminate the Food Assistance Program for Legal Immigrants
19 authorized by RCW 74.08A.120 and WAC 388-400-0045 and the termination of Plaintiff's and
20 other class members' state-funded Basic Food benefits, while continuing to provide Basic Food
21 benefits to U.S. Citizens and certain qualified aliens who meet the citizenship or immigration
22 status requirements of WAC 388-424-0020, violates her and class members' rights under the
23 Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
24 Plaintiff also alleges that the notices that DSHS sent to subclass members terminating or
25 reducing their food assistance violated her and subclass members' rights under the Due Process
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1 Clause of the Fourteenth Amendment to the United States Constitution. Plaintiff seeks
2 declaratory and injunctive relief that will inure to the benefit of all class and subclass members.
3 Plaintiff's claims are not subject to any unique defenses which would prevent her from
4 vigorously prosecuting this lawsuit or representing the interests of the class or subclass.
5

6 14. ***Defendant Has Acted on Grounds Generally Applicable to the Class and***
7 ***Subclass.*** Defendant, by eliminating the Food Assistance Program for Legal Immigrants (FAP)
8 and terminating Plaintiff's and class members' state-funded, Basic Food benefits has acted on
9 grounds generally applicable to the class, rendering declaratory and injunctive relief
10 appropriate respecting the whole class. Defendant sent similar notices to Plaintiff and subclass
11 members terminating or reducing their food assistance effective February 1, 2011 which were
12 constitutionally inadequate, rendering declaratory and injunctive relief appropriate respecting the
13 whole subclass. Certification of the class and subclass is therefore proper under Fed. R. Civ. P.
14 23 (b)(2).
15

16 15. ***Class Counsel.*** Plaintiff has retained counsel experienced in class litigation to
17 represent her, the class, and the subclass who have the commitment and resources necessary to
18 vigorously represent the class and subclass.
19

20 **V. STATUTORY AND REGULATORY FRAMEWORK**

21 16. The federal food stamp program, now known as the Supplemental Nutrition
22 Assistance Program ("SNAP") was created by Congress in 1964. *See* 7 U.S.C. § 2011 *et seq.*
23 The purpose of the program is to alleviate hunger and malnutrition among low-income
24 households by increasing their food purchasing power through the issuance of food stamps or
25 electronic benefits so that they may obtain a more nutritious diet through normal channels of
26 trade.

1 17. Under SNAP, each state choosing to participate is responsible for the
2 certification of households and the issuance of food stamps or electronic benefits. In order to
3 participate in this program, a state must submit a plan of operation to the Secretary of the
4 United States Department of Agriculture specifying the manner in which such program will be
5 conducted. This plan of operation must comply with various provisions set forth in 7 U.S.C. §
6 2020(e).
7

8 18. Through SNAP, the Secretary of the United States Department of Agriculture
9 reimburses the state for 50% of its administrative costs and pays for 100% of the food benefits
10 made available to households participating in the program. The state pays for 50% of the
11 administrative costs of operating the program.

12 19. A state agency that administers a SNAP Program must comply with the
13 provisions of 7 U.S.C. § 2011 *et seq.*, various regulations promulgated by the Secretary of
14 United States Department of Agriculture pursuant to 7 U.S.C. § 2032, its own state plan of
15 operation, and its own regulations.
16

17 20. The Washington Department of Social and Health Services has been operating a
18 Food Stamp or SNAP Program since the inception of the program. This program is now known
19 as the Washington Basic Food Program (“Basic Food”). *See*
20 http://www.dshs.wa.gov/manuals/eaz/sections/PS_FedFoodAssist.shtml. Through this program,
21 the State of Washington provides food assistance by electronic benefit transfer (EBT), which is
22 a direct deposit into a DSHS account that the participant can access with a debit card called the
23 Washington EBT Quest card. *See* WAC 388-412-0025.
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1 21. For more than thirty years, this federally-funded, entitlement program was
2 available to citizens and lawful resident aliens having a net income at or below federally
3 specified limits. *See* 7 U.S.C. § 2014(c).

4 22. In 1996, Congress enacted the Personal Responsibility and Work Reconciliation
5 Act (“PRWORA”), 8 U.S.C. § 1601 *et seq.* This Act severely restricted the eligibility of legal
6 immigrants for federally-funded, public benefits otherwise provided to needy persons,
7 including benefits under SNAP. *See* 8 U.S.C. §§ 1612 and 1613. Under the Act, an alien is
8 eligible to receive federal benefits only if he or she falls into the category of “qualified aliens,”
9 which includes legal permanent residents and others with specified immigration status. *See* 8
10 U.S.C. § 1641. The law further restricted the right of even qualified aliens to apply for SNAP
11 food benefits, limiting the program to qualified aliens who met certain criteria. *See* 8 U.S.C. §
12 1612. This includes but is not limited to qualified aliens who have resided in the United States
13 for at least five years after acquiring such status. *Id.* In general, all other legal immigrants lost
14 their eligibility for federal SNAP benefits as of August 22, 1996, the effective date of
15 PRWORA. Aliens who were receiving Food Stamps on the date of enactment remained eligible
16 thereafter for a limited grace period extending through August 22, 1997. *See* 8 U.S.C. §
17 1612(a)(2)(D)(ii).

18 23. As part of PRWORA, Congress authorized states, with their own funding, to
19 provide state food assistance benefits for certain aliens who were not otherwise eligible for
20 federal benefits. *See* 8 U.S.C. § 1622.

21 24. In 1997, a year after Congress terminated the eligibility of most legal
22 immigrants for SNAP benefits through the passage of PRWORA, it granted states the authority
23 to use state funds to provide food stamps or coupons to the legal immigrants rendered ineligible
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1 by the new law. Title VII of the Emergency Supplemental Appropriations Act of 1997, Pub. L.
2 No. 105-18 (1997). This provision is now codified at 7 U.S.C. § 2016(i).

3 25. In April 1997, the Washington Legislature exercised its option to continue to
4 provide legal immigrants with food assistance under the Washington State Basic Food Program
5 with state funds through its enactment of 1997 Wash. Laws Chapter 57, subsequently codified
6 at RCW 74.08A.120. As a result, no legal immigrants residing in Washington state who had
7 been receiving federally-funded, Basic Food Benefits prior to the effective date of PROWRA
8 and who continued to be eligible for such benefits, but for their alien or immigration status, had
9 their benefits terminated. Instead, DSHS continued to provide them with such benefits using
10 state funds.
11

12 26. As authorized by RCW 74.08A.120, DSHS took steps to implement a state-
13 funded Food Assistance Program for Legal Immigrants. DSHS structured the program so that
14 legal immigrants who (1) met the alien status requirements of the Food Stamp Act prior to
15 August 22, 1996; and (2) were now ineligible for federal food stamps due to the alien and
16 immigration restrictions of PROWRA would be eligible for state-funded food benefits. The
17 Department designed the program so that it would provide the same amount of benefits as the
18 federal food stamp program. DSHS regulations allowed households to receive both state and
19 federal food stamps, provided the total benefits any household received did not exceed the
20 federal food stamp amount for that household. *See* WSR 97-20-124 (October 1, 1997) adding
21 former WAC 388-45-010.
22

23 27. DSHS subsequently consolidated and simplified its program and eligibility
24 requirements for cash, food and medical assistance to comply with the Governor's Executive
25 Order 97.02. As part of this consolidation, DSHS promulgated regulations governing the state-
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1 funded Food Assistance Program for Legal Immigrants that were codified at WAC 388-400-
2 0045 and WAC 388-424-0025 discussed below. *See* WSR 98-16-044 (July 31, 1998).

3 28. As of January, 2011, these rules provided that anyone not eligible for federally-
4 funded Basic Food benefits solely because he or she does not meet the alien status requirements
5 pertaining to the federal program set forth in WAC 388-424-0020 is eligible for state-funded
6 Basic Food, provided the applicant meets both of the following requirements: 1) the applicant
7 is a Washington State resident; and 2) the applicant meets the immigrant eligibility
8 requirements of WAC 388-424-0025. *See* WAC 388-400-0045. This would include a “qualified
9 alien” as defined in WAC 388-424-0001, who does not meet the eligibility requirements under
10 WAC 388-424-0020 to receive federally-funded Basic Food benefits; or an alien who does not
11 meet the definition of a “qualified alien” as defined in WAC 388-424-0001 but who is
12 Permanently Residing Under Color of State Law (PRUCOL) in the United States as defined in
13 WAC 388-424-0001. *Id.*

14 29. An applicant for state-funded Basic Food must meet the same eligibility rules as
15 applicants for federally-funded Basic Food, except for those pertaining to citizenship or alien
16 status. WAC 388-400-0045(2).

17 30. Historically, the state of Washington has calculated a household’s state-funded
18 Basic Food benefits in the same manner as federally-funded Basic Food benefits, in accordance
19 with the provisions of WAC 388-450-0162. Where an assistance unit or household includes
20 both people who are eligible for federal Basic Food benefits and those who are eligible for
21 state-funded benefits, DSHS determines the federal and state portion of the household’s Basic
22 Food benefits by following the process set forth in WAC 388-400-0045(3).
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1 31. Since it first enacted PRWORA, Congress has partially restored federal SNAP
2 benefits to some legal immigrants who were eligible for and receiving state-funded Basic Food
3 benefits under the Food Assistance Program.

4 32. In 1998, Congress authorized states to provide federal food benefits to legal
5 immigrants who were lawfully residing in the United States as of August 22, 1996, and who are
6 disabled and receiving benefits or assistance for blindness or disability, or who were 65 or older
7 on August 22, 1996, or who are under 18 years old at the time of application. Sections 504,
8 506, and 507 of the 1998 Agricultural Research, extension, and Education Reform Act, P.L.
9 105-185.

10 33. In May 2002, Congress passed the Farm Security and Rural Investment Act of
11 2002 (“the 2002 Farm Bill”), P.L. 107-171, which restored food stamp to all legal immigrants –
12 regardless of their date of entry into the United States, who 1) are disabled; 2) have resided in
13 the United States in a lawful status for five consecutive years; or 3) are children under 18 years
14 old. These restorations were phased in over time, but all were in effect by October 1, 2003.

15 34. Despite this Congressional action, there still remained a number of legal
16 immigrants who were ineligible for federal Basic Food benefits because of their alien status
17 who qualified and received state-funded Basic Food benefits under the Food Assistance
18 Program for Legal Immigrants.

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21 **VI. FACTUAL BACKGROUND**

22 35. On September 13, 2010, Governor Gregoire issued Executive Order 10-04
23 mandating a nearly 6.3 percent across-the-board reduction to general fund-state appropriations
24 due to declining state revenue, as purportedly authorized by RCW 43.88.110(7).
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1 36. On September 22, 2010, DSHS published a Preproposal Statement of Inquiry in
2 the Washington State Register stating that it might amend or repeal its rules related to
3 eligibility and benefit level for the state-funded Food Assistance Program for Legal Immigrants
4 (“FAP”). WSR 10-19-135. This notice stated that changes to these rules may be needed to
5 reduce general fund expenditures on DSHS programs due to declining state revenue.
6

7 37. On September 29, 2010, DSHS released its plan for implementing the 6.3
8 percent across-the-board reduction to general fund expenditures, including those DSHS
9 programs administered by the Economic Services Administration. This plan indicated that
10 DSHS would be eliminating the state food assistance program effective February 1, 2011.
11 According to DSHS, monthly food assistance benefits would be reduced for approximately
12 13,700 persons who are residing in Washington legally but do not meet federal requirements
13 for the Supplemental Nutrition Assistance Program (SNAP) because of their alien status. The
14 agency estimated that this would save \$7,210,000 in general fund-state budget funds for the
15 current biennium.
16

17 38. On November 17, 2010, DSHS published a Proposed Rule in the Washington
18 State Register amending WAC 388-400-0040, 388-424-0020 and 388-489-0025 and repealing
19 WAC 388-400-0045 and 388-424-0025. WSR 10-23-109. This notice stated that the proposed
20 rule would eliminate the Food Assistance Program for Legal Immigrants. *Id.* According to the
21 notice accompanying the proposed rule, “[t]he governor mandated a 6.3 percent across-the-
22 board reduction to general fund-state budget appropriations due to declining state revenue”
23 [and] “[t]hese changes are needed to reduce general fund expenditures on DSHS programs to
24 stay within budget limits.”
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1 39. On December 15, 2010, Governor Gregoire released her proposed 2011-2013
2 operating budget which eliminated the state-funded Food Assistance Program.

3 40. On December 17, 2010, Governor Gregoire released her 2011 supplemental
4 budget bill which also proposed eliminating the state-funded Food Assistance Program for the
5 balance of the 2009-2011 biennium saving \$7,210,000 in general fund-state budget
6 appropriations for the remainder of this biennium.
7

8 41. On December 29, 2010, DSHS filed a permanent rule amending WAC 388-400-
9 0040, 388-24-0020 and 388-489-0025 and repealing WAC 388-400-0045 and 388-424-0025,
10 effectively eliminating the state-funded Food Assistance Program for Legal Immigrants (FAP)
11 authorized by RCW 74.08A.120. WSR 11-02-035. The Department stated that its permanent
12 rule would take effect February 1, 2011.
13

14 42. On January 12, 2011, DSHS headquarters notified its regional administrators
15 that the Food Assistance Program for Legal Immigrants was being eliminated effective January
16 31, 2011 as a result of budget reductions. It informed them that change or termination letters
17 would go to more than 10,350 Basic Food households who had members who would no longer
18 be eligible for these benefits and set forth the reason code text that would be included in these
19 letters. The letter also indicated that households would not have administrative hearing rights
20 to contest the elimination of FAP.
21

22 43. Plaintiff Navarro Pimentel is indigent. At the time this dispute arose, Plaintiff
23 Navarro Pimentel and her household were receiving \$647.00 in Basic Food benefits each
24 month. This included \$341.00 each month in federal Basic Food benefits and \$306.00 each
25 month in state-funded Basic Food benefits through the Food Assistance Program based on the
26 Department's determination that she (1) was a Washington State resident; (2) met the

1 immigrant eligibility requirements under WAC 388-424-0025; and (3) met the eligibility rules
2 for the federally-funded Basic Food program, except for those rules related to alien status. Ms.
3 Navarro Pimentel relies upon her federal and state-funded Basic Food benefits to purchase a
4 nutritious diet.

5 44. On January 18, 2011, DSHS sent notice to Plaintiff Navarro Pimentel and
6 approximately 10,350 Basic Food households who were receiving state-funded Basic Food
7 benefits through the Food Assistance Program for Legal Immigrants (FAP) authorized by RCW
8 74.08A.120 and WAC 388-400-0045. These notices stated that the Food Assistance Program
9 for Legal Immigrants was ending January 31, 2011 because of state budget cuts. It also stated
10 that recipients did not have administrative hearing rights when a program ends. These notices
11 listed the members of the assistance unit or household who according to DSHS had been
12 receiving FAP benefits and set forth the amount of monthly Basic Food benefits that the
13 household would receive when these benefits terminated on January 31, 2011 because of the
14 elimination of the state-funded Food Assistance Program for Legal Immigrants. These notices
15 failed to adequately explain why ineligible household members did not meet the citizenship or
16 alien status requirements for federal Basic Food benefits set forth in WAC 388-424-0020 or
17 indicate what information or verification the Department relied upon in reaching this
18 determination. These notices also failed to adequately show how the Department prorated any
19 ineligible member's income or allowable expenses in accordance with WAC 388-450-0140 or
20 otherwise adequately set forth the income, deduction, and expense figures used by the
21 Department so that Plaintiff and subclass members could review the computation of their
22 federal, Basic Food benefits. These notices also failed to set forth all the rules that the
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1 Department relied upon in reducing or terminating Plaintiff's and subclass members' Basic
2 Food benefits.

3 45. By terminating Plaintiff Navarro Pimentel's and other class members' state-
4 funded Basic Food benefits under the Food Assistance Program for Legal Immigrants (FAP)
5 authorized by RCW 74.08A.120 and WAC 388-400-0045, while continuing to provide Basic
6 Food benefits to those who meet the federal citizenship and alien status requirements of WAC
7 388-424-0020, the state of Washington is discriminating against them because of their status as
8 aliens for the sole purpose of saving money.

9
10 46. Plaintiff Navarro Pimentel and members of the proposed class and subclass are
11 suffering or will suffer irreparable harm due to the termination of their state-funded Basic Food
12 benefits under the Food Assistance Program for Legal Immigrants (FAP). As a result of
13 DSHS's actions, Plaintiff, class, and subclass members are not able to purchase an adequate
14 and nutritious diet as DSHS determined they need. Plaintiff and the class and subclass members
15 she seeks to represent have no plain, speedy, or adequate remedy at law except by this
16 complaint for injunctive relief.

17
18 **VII. CLAIMS FOR RELIEF**

19 **CLAIM ONE – EQUAL PROTECTION CLAUSE OF THE**
20 **FOURTEENTH AMENDMENT TO THE UNITED STATES**
21 **CONSTITUTION**

22 47. Plaintiff re-alleges and incorporates herein by reference each and every
23 allegation and paragraph set forth previously.

24 48. DSHS is terminating Plaintiff's and class members' state-funded Basic Food
25 benefits through the Food Assistance Program for Legal Immigrants (FAP) authorized by RCW
26 74.08A.120 and WAC 388-400-0045 solely to save money. At the same time, DSHS is

1 continuing to spend state funds to provide federally-funded, Basic Food benefits to U.S.

2 Citizens and aliens who meet the alien status requirements of WAC 388-424-0020.

3 49. In doing so, DSHS is discriminating against Plaintiff and the class she seeks to
4 represent on the basis of their alien or immigration status even though they are legal
5 immigrants, lawfully present in the United States.

6 50. The State of Washington's actions in discriminating against Plaintiff and class
7 members because of their alienage are subject to strict scrutiny under the Equal Protection
8 Clause of the Fourteenth Amendment to the United States Constitution.

9 51. Saving money is not adequate justification to discriminate against Plaintiff and
10 class members in violation of the Equal Protection Clause.

11 52. The State of Washington's decision to defund the state-funded Food Assistance
12 Program for Legal Immigrants (FAP) authorized by RCW 74.08A.120, DSHS's actions in
13 amending and repealing its rules governing this program, and the termination of Plaintiff's and
14 class members' state-funded Basic Food benefits under this program is a violation of the Equal
15 Protection Clause of the Fourteenth Amendment to the United States Constitution.

16 53. DSHS's actions deprive Plaintiff and the class of rights, privileges, or
17 immunities secured to them by the Constitution in violation of 42 U.S.C. § 1983.

18 54. Irreparable harm has occurred as a result of the DSHS actions. The balance of
19 harms favors entering temporary, preliminary, and permanent injunctive relief because the
20 harm suffered by Plaintiff and other class members outweighs any monetary loss to DSHS.

21 55. It is in the public interest that the Court grant temporary, preliminary, and
22 permanent injunctive relief to ensure that Plaintiff and other similarly situated individuals
23 continue to receive state-funded Basic Food benefits similar to what they would get under the
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1 federally-funded Basic Food program, except for their citizenship or immigration status, so that
2 they can obtain and purchase an adequate and nutritious diet pending the outcome of this
3 litigation.

4 **CLAIM TWO – DUE PROCESS CLAUSE OF THE FOURTEENTH**
5 **AMENDMENT TO THE UNITED STATES CONSTITUTION**

6 56. Plaintiff re-alleges and incorporates herein by reference each and every
7 allegation and paragraph set forth previously.

8 57. The notices that DSHS sent Plaintiff and subclass members terminating or
9 reducing their Basic Food benefits effective February 1, 2011 because of the defunding of the
10 Food Assistance Program for Legal Immigrants did not comply with the Due Process Clause of
11 the Fourteenth Amendment to the United States Constitution.

12 58. DSHS's actions deprive Plaintiff and the subclass of rights, privileges, or
13 immunities secured to them by the Constitution in violation of 42 U.S.C. § 1983.

14 59. Irreparable harm has occurred as a result of the DSHS's actions. The balance of
15 harms favors entering temporary, preliminary, and permanent injunctive relief because the
16 harm suffered by Plaintiff and other subclass members outweighs any monetary loss to DSHS.

17 60. It is in the public interest that the Court grant temporary, preliminary, and
18 permanent injunctive relief to ensure that Plaintiff and other subclass members' Basic Food
19 benefits are not terminated or reduced until they receive a constitutionally adequate notice, so
20 that they can obtain and purchase an adequate and nutritious diet pending the outcome of this
21 litigation.
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24 **VIII. PRAYER FOR RELIEF**

25 61. WHEREFORE, Plaintiff prays for the following relief:
26

1 (a) That the Court determine that this action be maintained as a class action
2 under Fed. R. Civ. P. 23(a), and (b)(2), defining the class as proposed above, approving
3 Plaintiff as adequate class representative, and designating Columbia Legal Services as class
4 counsel;

5 (b) For a declaration that State of Washington's decision to defund the state-
6 funded Food Assistance Program for Legal Immigrants (FAP) authorized by RCW 74.08A.120,
7 DSHS's actions in amending and repealing its rules governing this program, and the
8 termination of Plaintiff's and class members' state-funded Basic Food benefits because of the
9 lack of program funding violates the Equal Protection Clause of the Fourteenth Amendment to
10 the United States Constitution in violation of 42 U.S.C. §1983.

11 (c) For a declaration that the DSHS notices terminating or reducing
12 Plaintiff's and subclass members' Basic Food benefits effective February 1, 2011 because of
13 the elimination of the Food Assistance Program for Legal Immigrants deprived them of due
14 process of law under the Fourteenth Amendment to the United States Constitution, in violation
15 of 42 U.S.C. §1983.

16 (d) For entry of temporary, preliminary and permanent injunctive relief
17 enjoining DSHS's termination of Plaintiff's and class members' state-funded Basic Food
18 benefits under the Food Assistance Program for Legal Immigrants (FAP) and the State of
19 Washington's decision to defund this program to save money, to avoid violating the Equal
20 Protection Clause of the Fourteenth Amendment.

21 (e) For entry of temporary, preliminary, and permanent injunctive relief
22 enjoining DSHS's termination or reduction of Plaintiff's and subclass members' Basic Food
23 benefits until such time as DSHS provides them with adequate notice in accordance with the
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1 due process requirements of the Fourteenth Amendment to the United States Constitution and
2 ordering DSHS to restore any benefits that were unlawfully withheld prior to service of an
3 adequate notice.

4 (f) Waive the requirement for the posting of a bond as security for the entry
5 of temporary, preliminary, or permanent injunctive relief;

6 (g) Award the Plaintiff her costs of this action and reasonable attorney's fees
7 pursuant to 42 U.S.C. § 1988; and
8

9 (h) For such other relief as the Court may deem just and proper.

10
11 DATED: January 20, 2011

12 COLUMBIA LEGAL SERVICES

13
14 s/ Gregory D. Provenzano
15 Gregory D. Provenzano (WSBA # 12794)
16 Amy L. Crewdson (WSBA # 9468)
17 Attorneys for Plaintiff
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