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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

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

8 By: /s/ Lisa Ells

9 Lisa Ells

10 Attorneys for Plaintiffs  
11

12 DATED: May 13, 2020

XAVIER BECERRA

13 Attorney General of California

14 By: /s/ Kyle Lewis

15 Kyle Lewis

16 Deputy Attorney General

17 Attorneys for Defendants  
18

19 **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. 6639<sup>1</sup> 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

<sup>1</sup> 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.