The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON STATE ASSOCIATION OF HEAD START AND EARLY CHILDHOOD ASSISTANCE AND EDUCATION PROGRAM, *et. al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official capacity as Secretary of Health and Human Services; *et. al.*,

Defendants.

Case No. 2:25-cv-00781-RSM

DEFENDANTS' SUPPLEMENTAL BRIEFING ON THE PRELIMINARY INJUNCTION HEARING RE: PRWORA

INTRODUCTION

For decades, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) has stated that only United States citizens and qualified aliens are entitled to Federal public benefits. The U.S. Department of Health and Human Services (HHS) recently promulgated a notice interpreting provisions of PRWORA (the Notice). The Notice revises HHS's interpretation of the term "Federal public benefit" and identifies programs, including Head Start, that provide Federal public benefits and that are not excepted from PRWORA. The Notice restores

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compliance with federal law and ensures that taxpayer-funded programs intended for the American people are not diverted to subsidize unqualified aliens.

Plaintiffs' request that Defendants be preliminarily enjoined and stayed from implementing and enforcing Congress's clear directives should be denied.[1] First, Plaintiffs are unlikely to succeed on the merits of their Administrative Procedure Act (APA) claim. HHS has issued an interpretive notice to advise the public of its construction of certain of PRWORA's terms. This Notice does not constitute final agency action because it merely states HHS's interpretation of what sorts of benefits constitute "Federal public benefits" as that term is used in PRWORA. Because the Notice merely sets forth HHS's statutory interpretation, notice and comment was not required. Moreover, HHS supported its interpretation of PRWORA with extensive justifications that were neither contrary to law, nor arbitrary or capricious.

Second, Plaintiffs fail to establish irreparable harm. Plaintiffs' asserted injuries are largely speculative, and they fail to demonstrate how the asserted harms, if they materialize, would be irreparable. Plaintiffs' predicted dramatic drop in enrollment of 30% and resulting downstream harms of loss of funding, layoffs, and program closures, is not supported with any reliable data. Plaintiffs' allegation that they are at immediate risk of civil or criminal liability if they fail to comply with the Notice is simply inaccurate. Finally, Plaintiff's predicted economic, social, and public health consequences are also speculative, but any practical consequences that may stem from the Notice must be balanced against Congress's intent on who should receive public benefits.

Third, the public interest and balance of equities do not favor an injunction because such relief would impede the government's ability to enforce PRWORA, as enacted by Congress.

[1] Plaintiffs' request for a "stay" under 5 U.S.C. § 705 is improper. An order to "postpone the effective date" of the Notice would pose the same problems as a universal injunction. *See DHS v. New York*, 140 S. Ct. 599, 599-601 (2020) (Gorsuch, J., concurring in the grant of stay); *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2557 (2025).

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BACKGROUND

A. Statutory Background

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, 110 Stat. 2105, 2260 (1996), *codified at* 8 U.S.C. §§ 1601-1646, largely deems aliens who are not "qualified aliens" ineligible for "Federal public benefits." 8 U.S.C. § 1611(a); *see also id*. § 1611(c) (defining "Federal public benefit"); *id*. § 1641 (defining "qualified alien"). These restrictions apply to a wide range of federal benefits, including health care, housing, welfare, unemployment, and retirement benefits, among others, that fall within the definition of "Federal public benefit." *Id*. §§ 1611, 1621. Before PRWORA, the authorizing statute for each federal benefit program generally established its immigration-related eligibility criteria or lack thereof. *See generally id.* § 1601. PRWORA seeks to establish a set of uniform and restrictive eligibility criteria for a broad array of federal benefits. *Id*.

Under PRWORA's baseline rule, aliens who are not "qualified aliens" are ineligible for "Federal public benefit[s]." *Id*. § 1611(a). Qualified aliens include lawful permanent residents, asylees, refugees, aliens paroled into the United States for a period of at least one year, and some other groups. *Id*. §§ 1641(b) and (c). Whether the PRWORA eligibility restrictions apply to a particular federal program typically depends on two questions: (1) whether the program delivers benefits that fit PRWORA's definition of "Federal public benefits"; and (2) whether divergent language about alien eligibility in other statutes limits or overrides the PRWORA eligibility restrictions. *See* 8 U.S.C. § 1611(a).

PRWORA defines "Federal public benefit" broadly to include:

> (A) Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

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> (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

Id. § 1611(c)(1).

The language of the Federal public benefit definition encompasses benefits provided with federal funds even if they are not provided by a federal agency. *See id.* § 1611(c)(1). Therefore, PRWORA's restrictions carry through to state, local, and private benefit providers that deliver federally funded benefits. *See id.*

"Federal public benefit[s]" are subject to PRWORA verification requirements. *See id.* § 1611(c)(1). To constitute a "Federal public benefit," an enumerated benefit must also be delivered by a federal agency or with federally "appropriated funds." *Id.* § 1611(c)(1). Further, benefits enumerated under § 1611(c)(1)(B), such as unemployment and housing benefits, qualify as Federal public benefits only if they are provided "to an individual, household, or family eligibility unit." *Id.* § 1611(c)(1)(B). One category of federal programs subject to the PRWORA verification requirements are those that deliver benefits of a type that are "similar" to the enumerated benefit types listed in § 1611(c)(1)(B). *Id.*

B. Factual Background

On February 19, 2025, the President issued Executive Order No. 14,218, 90 Fed. Reg. 10,581, "Ending Taxpayer Subsidization of Open Borders" (PRWORA EO). The PRWORA EO seeks "[t]o prevent taxpayer resources from acting as a magnet and fueling illegal immigration to the United States, and to ensure, to the maximum extent permitted by law, that no taxpayer-funded benefits go to unqualified aliens." *Id.* § 2(a). To that end, it directs federal agencies to identify "all federally funded programs administered by the agency that currently permit illegal aliens to obtain any cash or noncash public benefit, and, consistent with applicable law, take all appropriate actions

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to align such programs with the purpose of the Executive Order and applicable law, including . . . PRWORA." *Id*. § 2(a)(i).

On July 14, 2025, pursuant to the PRWORA EO, HHS issued a notice interpreting certain PRWORA provisions. 90 Fed. Reg. 31,232 (July 14, 2025). Previously, in August 1998, HHS issued a notice interpreting PRWORA provisions and listed 31 programs the agency deemed as providing Federal public benefits. 63 Fed. Reg. 41,658 (Aug. 4, 1998) (1998 Notice). The 2025 Notice revises HHS's interpretation of the term "Federal public benefit" and identifies 44 programs, including Head Start, that provide Federal public benefits and that are not excepted from § 1611(a). HHS Notice at 31,232-37.

The 2025 Notice explains that the 1998 Notice "artificially and impermissibly constrains" the statutory definitions found in 8 U.S.C. § 1611 in four ways. *Id*. at 31,233. First, the 1998 Notice "reads a limitation into § 1611(c)(1)(A) that 'grant' refers to financial awards to individuals and thus does not include block grants to States and localities." *Id*. Second, it incorrectly interprets "eligibility unit" to preclude subparagraph (c)(1)(B) from applying to benefits provided to individuals, households, or families unless the individual, household, or family, as a condition of receipt of the benefit, is also required to meet additional specified criteria (e.g., a specified income level or residency). *Id*. at 31,233-34. Third, it does not give due regard to the catchall phrase "any other similar benefit" language in § 1611(c)(1)(B). *Id*. at 31,233-36. For instance, the 1998 Notice, while recognizing that Head Start provides non-postsecondary education and therefore does not fall within the enumerated "postsecondary education" phrase in § 1611(c)(1)(B), fails to recognize that the benefit provided under the Head Start program is "similar to" a welfare benefit and, therefore, falls within the scope of subparagraph (c)(1)(B). *Id*. at 31,236. And, finally, the 1998 Notice "incorrectly asserts that the 'exemption[s]' in § 1611(b)(1) 'excludes some HHS programs from the definition of 'Federal public benefits.'" *Id*. at 31,233.

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LEGAL STANDARD

A "preliminary injunction is an extraordinary and drastic remedy[.]" *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008) (citation omitted). A district court should enter a preliminary injunction only "upon a clear showing that the [movant] is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). To obtain a preliminary injunction, the moving party must demonstrate (1) that it is likely to succeed on the merits of its claims; (2) that it is likely to suffer an irreparable harm in the absence of injunctive relief; (3) that the balance of equities tips in its favor; and (4) that the proposed injunction is in the public interest. *Id.* at 20. When "the Government is the opposing party[,]" the assessment of "harm to the opposing party" and "the public interest" merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

I. Plaintiffs Cannot Establish Likelihood of Success on the Merits.

Under the APA, only "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review." 5 U.S.C. § 704. The Court may set aside agency action if the Court finds that it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law" or "without observance of procedure required by law." 5 U.S.C. §§ 706(2)(A), (D).

A. The Notice is not a final agency action.

The Notice does not constitute final agency action. *See* 5 U.S.C. § 704. Final agency action has two characteristics. First, the action must mark the consummation of the agency's decision-making process - it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which rights or obligations have been determined, or from which legal consequences will flow. *Bennett v. Spear*, 520 U.S. 154, 177 (1997).

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Agencies' "interpretative rules or statements of policy generally do not qualify" as final agency action "because they are not finally determinative of the issues or rights to which they are addressed." *Am. Tort Reform Ass'n v. Occupational Safety & Health Admin.*, 738 F.3d 387, 395 (D.C. Cir. 2013) (cleaned up). Interpretive rules are "issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers." *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 99 (1995) (internal quotation marks omitted).

A non-binding interpretive rule is not a "final agency action" suitable for review because "'standing alone, it is lifeless and can fix no obligation nor impose any liability on the plaintiff.'" *Borg-Warner Protective Servs. Corp. v. EEOC*, 245 F.3d 831, 836 (D.C. Cir. 2001) (quoting *Georator Corp. v. EEOC*, 592 F.2d 765, 767 (4th Cir. 1979)). The critical feature of the interpretive rule is that it does not have independent legal force. *Ctr. for Auto Safety v. Nat'l Highway Traffic Safety Admin.*, 452 F.3d 798, 805-06 (D.C. Cir. 2006).

Here, the Notice is an interpretive rule that simply "reflects" HHS's interpretation of PRWORA and does not "modif[y] or add[] to a legal norm based on the agency's own authority." *Syncor Intern. Corp. v. Shalala*, 127 F.3d 90, 94-95 (D.C. Cir. 1997). The Notice sets forth HHS's understanding of PRWORA's purpose and plain text and explains why HHS's statutory interpretation closely aligns with PRWORA's provisions. HHS Notice at 31,232.

The fact that practical consequences may stem from the Notice does not create final agency action. *Reliable Automatic Sprinkler Co., Inc. v. Consumer Prod. Safety Comm'n*, 324 F.3d 726, 732 (D.C. Cir. 2003) ("To be sure, there may be practical consequences, namely the choice . . . between voluntary compliance . . . and the prospect of having to defend itself in an administrative hearing should the agency actually decide to pursue enforcement. But the request for voluntary compliance clearly has no legally binding effect."); *Nat'l Ass'n of Home Builders v. Norton*, 415 F.3d 8, 15 (D.C. Cir. 2005).

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Although the Notice indicates how HHS interprets the statute and indicates that HHS will employ that interpretation in administration of applicable programs, the Notice does not require adoption of specific verification methods and does not identify any consequences that will follow failure to verify. HHS Notice at 31,237 (HHS "is not formally revising the aspects of the 1998 Notice that touch on PRWORA's verification requirements at this time. However, the Department notes important considerations for stakeholders to keep in mind."). Thus, the Notice does not have legal consequences and is not a final agency action reviewable under the APA.

B. HHS was not required to engage in notice and comment rulemaking.

The procedural requirements for rulemaking under the APA, which include advance notice and an opportunity for public comment, do not apply to "interpretative rules." 5 U.S.C. § 553(b)(A). Interpretive rules "do not have the force and effect of law," and "do not require notice and comment." *Shalala*, 514 U.S. at 99; *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 97 (2015).

The fact that the 1998 Notice was longstanding does not alter the procedural requirements, as no additional requirements are necessary to amend an interpretive rule. *See Perez*, 575 U.S. at 103 (rejecting the argument that the rule having been a definitive prior interpretation requires additional procedures.). And in any event, the 1998 Notice was likewise issued without notice and comment and Plaintiffs do not suggest that notice was procedurally invalid.

A change in HHS's interpretation of PRWORA does not transform this interpretive rule into a legislative rule requiring notice and comment rulemaking. A rule is not legislative merely because the agency has changed its interpretation of a statute. *Orengo Caraballo v. Reich*, 11 F.3d 186, 196 (D.C. Cir. 1993). Here, the Notice merely sets forth HHS's construction of the statute and, therefore, lacks the force of law. *See, e.g., Christensen v. Harris Cnty.*, 529 U.S. 576, 587

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(2000). HHS was free to change or withdraw its prior interpretations without engaging in notice and comment rulemaking.

C. The Notice is not contrary to law.

Under PRWORA, only U.S. citizens and qualified aliens are entitled to receive Federal public benefits. *See* 8 U.S.C § 1611(a). The Notice properly interprets the term "Federal public benefit" and guides grantees of Federal public benefit programs to verify that benefit recipients are of a qualifying immigration status and thus is not contrary to law.

The Notice starts with PRWORA's "plain language" definition of the term "Federal public benefit." HHS Notice at 31,233 (citing 8 U.S.C. § 1611(c)(1)(A)-(B)). Under subsection (A), "Federal public benefit" means "any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States." 8 U.S.C. § 1611(c)(1)(A). The Notice interprets this subsection as applying to all HHS "grants," including financial awards to individuals and block grants to States and localities. HHS Notice at 31,233. Although benefits may flow through a middleman such as a State, PRWORA applies if, ultimately, a beneficiary receives a "Federal public benefit" provided "by appropriated funds of the United States." 8 U.S.C. § 1611(c)(1)(A).

Under subsection (B), "Federal public benefit" means "any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States." 8 U.S.C. § 1611(c)(1)(B). HHS applies the canon of *ejusdem generis* to interpret subsection (B)'s "any other similar benefit" catch-all provision "in line with plain meaning: any other benefit that is 'alike in substance or essentials' to or that 'has characteristics in common' with 'retirement, welfare, health, disability, public or assisted housing, postsecondary

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education, food assistance, or unemployment benefits.'" *Id.* at 31,236 (quoting 8 U.S.C. § 1611(c)(1)(B)) (alterations adopted).

Head Start is an anti-poverty program that provides for school readiness, provides low-income children and their families with "health, educational, nutritional, and social and other services, that are determined based on family needs assessment, to be necessary," and "may serve as child care for parents of young children." 42 U.S.C. §§ 9831, 9833. HHS interprets that Head Start is a "Federal public benefit" because these benefits are "'similar' to 'welfare' benefits." HHS Notice at 31,236. While the term "welfare" is not defined in PRWORA, it can be given a fair reading in its plain meaning and agency usage. The broad sweep of "welfare" described in PRWORA's preamble, 8 U.S.C. § 1601, supports a broad reading of "welfare" and any "similar benefit," as do other laws enacted around the same time such as the Welfare Indicators Act of 1994 (Pub. L. 103-432).

The Administration for Children and Families also defines "welfare" specifically in the context of services that help children: "Child welfare is a continuum of services designed to ensure that children are safe and that families have the necessary support to care for their children successfully."[2] Head Start is, at minimum, a program that provides means-tested assistance to families and individuals similar to programs under part A of title IV of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, and the Supplemental Security Income program under title XVI of the Social Security Act. HHS Notice at 31,236.

Nor does PRWORA only apply to programs offering direct financial assistance to individuals. Assistance provided through block grants to States and non-financial assistance is addressed in the statute. For example, § 103(a) of PRWORA reformed "welfare" by changing the

[2] *See* Administration for Children and Families, *Child Welfare*, available at https://acf.gov/acf_issues/child_welfare.

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previous Aid to Families with Dependent Children (AFDC) program to the Temporary Assistance for Needy Families (TANF), which provides block grants to States. Pub. L. No. 104-193, § 103(a) (codified at 42 U.S.C. §§ 601-19).

TANF aims to, among other things, "provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives" and "end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage." 42 U.S.C. § 601. Thus, "welfare" under the new TANF program was intended to include far more than just cash assistance. *See* 45 C.F.R. § 260.31(a) (assistance "includes cash payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses)").

The Notice is also not contrary to the Head Start Act. The Head Start Act requires that the Secretary by regulation "prescribe the eligibility for the participation of persons in Head Start programs" and then lists certain requirements in the regulation. 42 U.S.C. § 9840. HHS did just as required and issued regulations on eligibility at 45 CFR § 1302.12. But nothing in the language requiring HHS to issue regulations prohibits Congress from prescribing other eligibility requirements for the Head Start program through other laws.

D. The Notice is not arbitrary or capricious.

The APA permits courts to set aside agency action that is "arbitrary" or "capricious." 5 U.S.C. § 706(2)(A). Under the arbitrary or capricious standard, an agency's decision is presumed valid, and a court reviews only whether that decision "was based on a consideration of the relevant factors and whether there has been a clear error of judgment." *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99, 105 (1977). Review is "deferential," *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019),

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1 and simply examines whether the agency's decision "was the product of reasoned
2 decisionmaking." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
3 463 U.S. 29, 52 (1983). Moreover, "[t]he scope of review under the 'arbitrary and capricious'
4 standard is narrow and a court is not to substitute its judgment for that of the agency." *Id.* at 43.
5 Plaintiffs argue that the Notice fails to consider reliance interests. As an initial matter,
6 reliance interests are less relevant in matters of statutory interpretation. Under *Loper Bright Enters.*
7 *v. Raimondo*, 603 U.S. 369 (2024), PRWORA means what it means; its best reading cannot have
8 changed simply because the government previously interpreted it wrongly, even if people relied
9 on its error. *See DHS v. Regents of the University of California*, 591 U.S. 1, 60 (2020) (Thomas,
10 J., concurring in the judgment) (opinion joined by Alito and Gorsuch, JJ.) ("But reliance interests
11 are irrelevant when assessing whether to rescind an action that the agency lacked statutory
12 authority to take. No amount of reliance could ever justify continuing a program that allows DHS
13 to wield power that neither Congress nor the Constitution gave it.").
14 While Plaintiffs cite *Regents*, arguing it is per se error not to heavily weigh reliance
15 interests in a case involving a change in positions, *Regents* is distinguishable. *Regents* involved an
16 exercise of enforcement discretion for those receiving Deferred Action for Early Childhood
17 Arrivals (DACA). DACA recipients had no statute to rely on, as the Executive's discretion was
18 the only source of their status. Here, Congress enacted PRWORA to limit who could receive
19 federal public benefits, and the Notice is consistent with the statutory language.
20 Ultimately, it is not arbitrary or capricious for an agency to decline to adopt an incorrect
21 reading of a statute merely because the correct reading of the text comes with practical costs;
22 rather, if the agency reasonably concludes that Congress already made that judgment by using the
23 words that it did, it is entitled to follow Congress's lead. *See Rust v. Sullivan*, 500 U.S. 173, 187
24 (1991); *Bostock v. Clayton Cnty.*, 590 U.S. 644, 666 (2020). At the very least, the choice between

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fidelity to the best interpretation of statutory text and practical consequences involves the sort of "value-laden decisionmaking and the weighing of incommensurables" entrusted to federal agencies. *Dep't of Com. v. New York*, 588 U.S. 752, 776-77 (2019).

II. Plaintiffs Have Not Demonstrated that They Will Suffer Irreparable Harm.

A plaintiff must demonstrate they are likely to suffer irreparable harm in the absence of a preliminary injunction. *See Winter*, 555 U.S. at 20. The Ninth Circuit has cautioned that "[s]peculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction." *Caribbean Marine Servs. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988).

The HSA Plaintiffs predict that their members will suffer a dramatic drop in enrollment of up to 30%, which they allege will lead to a myriad of harms including funding cuts, mass layoffs and program closures. Dkt. 79, pg. 16. This is entirely speculative and is not supported by the accompanying declarations. The declarations predict that enrollment "could decline by 30% or more" (Dkt. 81, ¶ 34), "could decline by 20% or more" (Dkt. 83, ¶ 26), or "could decline by 15 to 25%" (Dkt. 84, ¶ 28). Plaintiffs offer no statistics or calculations to support these predictions, with some Plaintiffs acknowledging "it is difficult to say with precision how many children and families will be impacted" (Dkt. 81, ¶ 34) and conceding that they "do not maintain routine records on immigration status" (Dkt. 83, ¶ 26). While Plaintiffs offer no concrete evidence to substantiate their various predictions, HHS's prediction that 16% of total cumulative enrollment in Head Start programs in FY 2024 will be impacted, is supported by a full analysis and data set forth in its Regulatory Impact Analysis. Dkt. 88, Ex. D, pgs.7-8.

The HSA Plaintiffs also claim they are subject to immediate threats of civil and criminal penalties for failure to comply with the Notice. Dkt. 79, pgs. 13, 17. Yet the Notice does not detail enforcement procedures or non-compliance consequences "making any prediction about future injury [and its imminence] just that—a prediction." *Trump v. New York*, 592 U.S. 125, 133 (2020)

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(citing *City of Los Angeles v. Lyons*, 461 U.S. 95, 108 (1983)). Moreover, HHS has a robust administrative appeal procedure through the Departmental Appeals Board (DAB), that includes notice, an opportunity to be heard, an opportunity to correct non-compliance, and appeal rights to address any non-compliance issues. During any appeal process, Plaintiffs would keep their funding rendering baseless their concerns about immediate enforcement actions and irreparable harm.

Similarly conjectural is the HSA Plaintiffs' assertion that compliance with the Notice's directive to verify the immigration status of benefit recipients will lead to significant administrative costs. Dkt. 79, pg. 18. Plaintiffs assert, as future irreparable injury, resource diversion and training costs they assume will accompany the development and implementation of new policies and procedures to verify immigration status. Yet, the Notice does not mandate program-specific verification methods. Even assuming *arguendo* that financial harms could be irreparable if they were unable to be recouped, it is unlikely monetary costs would pose an existential threat to Plaintiffs' programs when HHS estimates "the incremental costs of verification are about 0.1% of the average annual expenditures per enrollee. HHS Notice at 31,238.

Finally, the Parent Plaintiffs' prediction of a host of economic, social, and public health consequences is also speculative and any practical consequences that may stem from the Notice must be balanced against Congress's intent on who should receive public benefits.

III. The Balance of the Equities and the Public Interest Disfavor a Preliminary Injunction.

A preliminary injunction also is not appropriate because the balance of the equities and the public interest tip in Defendants' favor. Granting a preliminary injunction would disrupt HHS's efforts to comply with the PRWORA EO and to correctly interpret PRWORA's plain text consistent with the statutory purpose. A preliminary injunction order would effectively disable HHS, as well as the President himself, from implementing the President's priorities consistent with

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legal authorities. "Any time a [government] is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (brackets omitted).

IV. Any Preliminary Injunction Should be Limited, Accompanied by Security, and Be Stayed.

If the Court concludes that Plaintiffs are entitled to an injunction the relief must be no "broader than necessary to provide complete relief to each plaintiff with standing to sue." *CASA*, 145 S. Ct. at 2557. "Under this principle, the question is not whether an injunction offers complete relief to everyone potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete relief to the plaintiffs before the court." *Id.* Any preliminary injunction should do no more than necessary to alleviate the irreparable harm to any specific Plaintiff the Court finds to have established such harm.

Any preliminary injunction should also require Plaintiffs to post security. The Court may issue a preliminary injunction "only if the movant gives security" for "costs and damages sustained" by Defendants if they are later found to "have been wrongfully enjoined." Fed. R. Civ. P. 65(c); *cf. Department of Education v. California*, No. 24A910, 2025 WL 1008354, at *2 (Apr. 4, 2025). The bond amount should consider that the relief Plaintiffs request will hinder HHS's efforts to comply with the PRWORA EO and would effectively disable HHS from implementing the President's priorities consistent with legal authorities. If Plaintiffs fail to comply with Rule 65(c), the Court should deny or dissolve the requested injunctive relief.

Finally, Defendants respectfully request that if this Court does enter injunctive relief, that relief be stayed for a period of seven days to allow the Solicitor General to determine whether to appeal and seek a stay pending appeal.

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DATED this 29th day of August, 2025.

Respectfully submitted,

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