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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

WYLENE LENA HINKLE, et al.,

Plaintiffs,

v.

MICHELLE BAASS, et al.,

Defendants.

3:18-cv-06430 MMC

**CLASS ACTION SETTLEMENT
 AGREEMENT**

This Settlement Agreement (“Agreement”) fully and finally resolves all claims asserted in *Hinkle, et al. v. Baass, et al.*, U.S. District Court for the Northern District of California, Case No. 3:18-cv-06430 MMC (“Action”) against Defendants Michelle Baass and California Department of Health Care Services (collectively “DHCS”) and Defendants Contra Costa County, County of Alameda, and County of San Diego (collectively, the “County Defendants”) (together, DHCS and County Defendants are “Defendants”).

1 **I. RECITALS**

2 A. Plaintiffs Wylene Lena Hinkle, Dennis Gassaway, and Myra Metz are Blind
3 individuals, who receive services through the California Medical Assistance Program (“Medi-
4 Cal”), and have requested that communications concerning their Medi-Cal benefits be provided in
5 an alternative format to the standard print notices provided to Medi-Cal recipients. The California
6 Council of the Blind is a statewide non-profit membership organization that advocates on behalf
7 of Blind individuals (collectively with the individual Plaintiffs, “Named Plaintiffs”). Some of its
8 members receive services through Medi-Cal and have requested that communications concerning
9 their Medi-Cal benefits be provided in an alternative format. Named Plaintiffs sue on behalf of all
10 others similarly situated (collectively “Putative Class”).

11 B. The California Department of Health Care Services (“DHCS”) is the single state agency
12 designated to administer the Medi-Cal program. Michelle Baass is the Director of the California
13 Department of Health Care Services and participates in this lawsuit in her official capacity. The
14 County Defendants, like other counties in California, administer significant portions of the Medi-
15 Cal program, including eligibility and enrollment, under DHCS’s supervision.

16 C. On October 22, 2018, Named Plaintiffs filed the Action alleging that the County
17 Defendants’ and DHCS’s conduct violated the Americans with Disabilities Act of 1990 (“ADA”) (42 U.S.C. § 12131 et seq.); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794);
18 section 1557 of the Affordable Care Act (“ACA”) (42 U.S.C. § 18116); section 11135 of the
19 California Government Code; the California Disabled Persons Act (Cal. Civ. Code, § 54); and the
20 Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. The Action is
21 brought to challenge alleged discrimination regarding Effective Communication and the
22 availability of written communications concerning Medi-Cal in alternative formats accessible to
23 Named Plaintiffs and other similarly situated individuals, and seeks declaratory and injunctive
24 relief.

25
26 D. Named Plaintiffs and Defendants (collectively “Parties”) recognize the inherent
27 uncertainty of litigation and seek to resolve this case by delineating the implementation plan
28

1 designed to provide Medi-Cal beneficiaries with Effective Communication through provision of
2 auxiliary aids and services pursuant to 28 C.F.R. §§ 35.160-35.164.

3 E. DHCS is committed to communicating with persons with vision-related disabilities
4 regarding their Medi-Cal eligibility or coverage, including communications regarding issues that
5 may have a material impact on such eligibility or coverage, by providing written communications
6 in alternative formats. To the extent that an individual with a vision-related disability expresses a
7 preference for accessible communications in a format other than those provided for in this
8 Agreement, DHCS further expresses its commitment to evaluating other forms of accessible
9 communications pursuant to applicable federal and state laws.

10 F. The Parties have engaged in lengthy settlement discussions with the assistance of the
11 Honorable Jacqueline Corley. The Honorable David A. Garcia (ret.) also assisted the Parties as a
12 mediator through the U.S. District Court of the Northern District of California's Alternative
13 Dispute Resolution (ADR) Program.

14 **II. FRAMEWORK**

15 DHCS is committed to effectively communicating with persons with vision-related
16 disabilities regarding their Medi-Cal eligibility or coverage. DHCS commits to implement
17 programs and systems that ensure Effective Communication with participants in the Medi-Cal
18 program, including applicants, beneficiaries, and their authorized representatives, who are Blind
19 or have vision-related disabilities. Specifically, DHCS will establish system-wide processes for:

- 20 1. Identifying people who have requested Alternative Formats (further defined in Section
21 II.A.), including their requested methods of communication, and maintaining such
22 information in a centralized database;
- 23 2. Providing for the exchange of data between DHCS, the California Department of Social
24 Services (CDSS), which administers the fair hearing system for Medi-Cal appeals,
25 counties (including county offices/programs that administer portions of the Medi-Cal
26 program), managed care plans, and any administrative contractor of DHCS that
27 provides Written Materials as part of the Medi-Cal program, regarding the identity of
28 people who have requested Alternative Formats and the requested method of

1 communication, for purposes of ensuring that participants in Medi-Cal receive their
2 requested Alternative Format regardless of which entity receives the requests or sends
3 written communications;

4 3. Sending timely and accessible routine notices in the requested Alternative Format, and
5 sending individualized notices (such as a notice of action) in the requested Alternative
6 Format within a reasonable timeframe;

7 4. Providing information and instructions to counties and managed care plans regarding
8 their obligations to provide Effective Communication to Blind and visually-impaired
9 individuals; and

10 5. Collecting and reviewing information sufficient to assure DHCS that counties and
11 managed care plans are furnishing Effective Communications to Blind and visually-
12 impaired individuals, pursuant to and consistent with 28 C.F.R. §§ 35.160-35.164 and
13 written guidance provided by DHCS, including data pertaining to the numbers of people
14 requesting Alternative Formats, the types of formats requested, denials of requests, and
15 complaints.

16 **III. DEFINITIONS**

17 **A. Alternative Formats**

18 For purposes of this Agreement, “Alternative Format” refers to “auxiliary aids and
19 services” as defined in 28 C.F.R. § 35.104. Nothing in this definition is intended to obviate
20 DHCS’s obligation to comply with language access laws.

21 **B. Blind**

22 “Blind” includes all persons who, under state or federal civil rights laws, have a vision-
23 related disability that limits the major life activity of seeing, and require alternative methods to
24 access standard print information. Any reference to applicants or beneficiaries also includes Blind
25 individuals who are representing or otherwise assisting a Medi-Cal applicant or beneficiary.

26 **C. CalSAWS**

27 “CalSAWS” refers to the California State Automated Welfare System, an automated,
28 integrated eligibility and case management system that will support key public assistance

1 programs, including Medi-Cal, in all 58 California counties on a cloud-hosted architecture. It is
2 currently being deployed to counties throughout the State and will encompass the following
3 functions: eligibility determination, benefits calculation, benefits issuance, enrollment status, and
4 information management. CalSAWS, or any future similar automated solution utilized by DHCS
5 to administer Medi-Cal benefits and services, will permit applicants to select ongoing receipt of
6 Written Materials in an Alternative Format. The future automated solution will capture and record
7 Alternative Format selections, including any updates or changes to the selections.

8 **D. Class, Putative Class, or Settlement Class**

9 “Class,” “Putative Class,” or “Settlement Class” in this matter is defined as individuals in
10 the State of California who are applicants or beneficiaries of Medi-Cal and who need written
11 materials regarding Medi-Cal in an Alternative Format due to a vision-related disability.

12 **E. Class Counsel**

13 “Class Counsel” means Disability Rights California, by Autumn Elliott; Disability Rights
14 Advocates, by Rebecca Williford; and Disability Rights Education Fund by Silvia Yee.

15 **F. Disability Access Laws**

16 “Disability Access Laws” are defined as the following laws and regulations, as amended:
17 Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131, *et seq.*; ADA Title II
18 implementing regulations, 28 C.F.R., Part 35; Section 504 of the Rehabilitation Act of 1973, 29
19 U.S.C. § 794, *et seq.*; Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116; California
20 Government Code § 11135; California Disabled Persons Act, California Civil Code § 54, *et seq.*;
21 or any other regulations or guidelines promulgated pursuant to those statutes.

22 **G. Effective Communication**

23 “Effective Communication” refers to the obligation described in 28 C.F.R. § 35.160(a)(1),
24 and subject to 28 C.F.R. § 35.164.

25 **H. Effective Date**

26 “Effective Date” is defined as the date on which the District Court issues an Order granting
27 Final Approval of the Settlement Agreement.
28

I. Final Approval

“Final Approval” is defined as the approval given in a written order to this Agreement by a United States District Court Judge or Magistrate of competent jurisdiction after notice to the Settlement Class and the holding of the Final Fairness Hearing.

J. Final Fairness Hearing

“Final Fairness Hearing” means the Court hearing conducted pursuant to Federal Rule of Civil Procedure 23(e)(2) where the Parties will request the Final Approval Order be entered approving the Settlement Agreement. The Final Fairness Hearing must occur at least 30 days after the Objection Deadline, on such date as set by the Court.

K. Large Print

“Large Print” is defined as print that is at least 18 point in size and in a bold, sans serif, mono, or fixed space font.

L. Nonstandard Alternative Format

For purposes of this Agreement, “Nonstandard Alternative Format” refers to formats other than Large Print, Braille, Audio, and Electronic Formats. It includes, but is not limited to, a document with print larger than 20-point, provision of tactile signing, or provision of a qualified reader.

M. Objection

“Objection” means the formal objection and any supporting documents that a Settlement Class member or the legal representative of a Settlement Class member may submit in order to object to the Settlement Agreement in accordance with Section X.C.

N. Objection Deadline

“Objection Deadline” means the date by which a Settlement Class member must submit an Objection to the Settlement Agreement. The Objection Deadline shall be 30 days before the Final Fairness Hearing.

O. Objector

“Objector” means a Settlement Class member who submits an Objection or on whose behalf a legal representative submits an Objection.

P. “Preliminary Approval”

Preliminary Approval means the Court’s order preliminarily approving the Settlement Agreement, preliminarily certifying the Settlement Class, and authorizing dissemination of the Notice.

Q. Settlement Agreement (“Agreement”)

Settlement Agreement (“Agreement”) is defined as this Class Action Settlement Agreement and Exhibits A and B to this Agreement.

R. Single Streamlined Application

“Single Streamlined Application” is defined as the application used in California and approved by the Centers for Medicare and Medicaid to facilitate eligibility determinations and enrollment in health coverage, Medi-Cal, and Covered California. The application will be available in both paper and online formats.

S. Standard Alternative Format

For purposes of this Agreement, “Standard Alternative Format” refers to large print, Braille, and audio and electronic formats. DHCS further agrees to periodically evaluate other types of “auxiliary aids and services” (as defined in 28 C.F.R. § 35.104) for providing written communications under this Agreement. Any party to the Agreement may also provide written notice to the other parties requesting evaluation of additional means of transmitting communications in audio or electronic format. The receiving party shall consider such proposals, and will advise the proposing party as to whether it agrees to modify the Agreement to include such other Alternative Formats.

T. Written Material

“Written Material” is defined as a written document provided to a Medi-Cal beneficiary that is subject to the requirements of applicable federal or state regulations, including documents subject to Welfare and Institutions Code section 14029.91. Nothing in this definition is intended to obviate DHCS’s obligations regarding a person who requests that other documents be provided in an Alternative Format (or other type of auxiliary aid or service) or requests documents in other languages.

1 **IV. TERMS**

2 **A. Provision of Alternative Formats**

3 DHCS agrees that Written Materials will be available in Alternative Formats according to
4 the implementation plan attached as Exhibit A. Exhibit A contains information about DHCS's
5 phased implementation process and manual tracking of requests for Written Materials to be
6 provided in an Alternative Format.

7 DHCS further agrees to work towards development and implementation of a fully
8 automated solution, for providing Written Materials in an Alternative Format for individuals
9 covered by this Agreement. This automated solution will be comprised of changes to various
10 programs/systems such as CalSAWS, CalHEERS and MEDS. Components of the automated
11 solution are identified in the section titled "Long-Term Applications and System Changes" of
12 Exhibit A. DHCS additionally agrees to report information regarding progress towards
13 implementation of the tasks identified in Exhibit A to Plaintiffs' counsel in conjunction with the
14 semiannual reports identified in Exhibit B: Monitoring Protocol. If, after reviewing the
15 semiannual report or after Plaintiffs have received complaints from Blind individuals or are
16 otherwise aware of issues with DHCS's provision of Effective Communication, Plaintiffs inform
17 DHCS that they wish to meet with DHCS, DHCS will meet and confer with Plaintiffs' counsel
18 regarding the issues raised by Plaintiffs, and if necessary, determine a mutually-convenient and
19 timely date for the parties to discuss in person, by phone, or via videoconference.

20 DHCS will provide Written Materials in Standard Alternative Format upon request to
21 beneficiaries, applicants, or authorized representatives. In the event a beneficiary, applicant, or
22 authorized representative of a beneficiary or applicant requests Written Materials in a
23 Nonstandard Alternative Format, the individual may submit a request to DHCS's Office of Civil
24 Rights (OCR) for consideration. Additional details about the process for evaluating such requests
25 are set forth in Exhibit B. DHCS will evaluate and provide written determinations regarding
26 requests for Nonstandard Alternative Formats pursuant to 28 C.F.R. § 35.160(b)(2) and § 35.164.

27 DHCS shall inform individuals of the availability of this option in the Medi-Cal application
28 and in any other circumstances in which DHCS informs individuals of the right to request

1 Alternative Formats. In any circumstance in which DHCS allows individuals to select from a list
2 of Standard Alternative Formats, DHCS shall also provide individuals an opportunity to indicate
3 that they are requesting a Nonstandard Alternative Format and will timely transmit those requests
4 to DHCS OCR for evaluation. Nothing herein shall be construed to prevent DHCS from granting
5 such requests without transmitting them to OCR if it deems it appropriate.

6 **B. Mechanisms for Blind Individuals to Select Alternative Format Preferences**

7 DHCS shall ensure that any means by which individuals may apply for Medi-Cal, may
8 initiate the Medi-Cal eligibility process, may respond to the Medi-Cal redetermination process, or
9 may review or correct application and eligibility information allows Blind Individuals to indicate
10 their preference to receive Written Materials in Alternative Formats.

11 **1. IT Application**

12 DHCS shall maintain an online form for Alternative Format selection (“IT Application”) as
13 described in Exhibit A.

14 **2. Single Streamlined State Benefits Application**

15 DHCS shall update the Single Streamlined Application so that it allows Blind Individuals to
16 make a selection to receive Written Materials in Alternative Formats when the individual submits
17 their initial application.

18 **C. Estimated Implementation Dates**

19 The dates listed in the second column in Exhibit A – Implementation Plan represent
20 DHCS’s good faith estimates for when implementation milestones will be achieved. DHCS shall
21 use best efforts to complete the tasks listed in the first column in Exhibit A by the dates listed in
22 the second column. DHCS additionally agrees to report information regarding progress towards
23 implementation of the components of Exhibit A and the corresponding target dates to Plaintiffs’
24 counsel on a semiannual basis.

25 The Parties further recognize that unforeseen events may influence the deadlines contained
26 in Exhibit A. In the event an unforeseen circumstance occurs that is likely to cause DHCS to fail
27 to timely fulfill any milestone in Exhibit A, DHCS shall notify Plaintiffs’ counsel in writing in
28 the next semiannual report, or earlier if practicable. Following such notification, DHCS and

1 Plaintiffs may stipulate to amend Exhibit A, including if necessary any corresponding provision
2 in this document, and submit such stipulation for approval by the Court. In addition, upon a
3 showing of good cause and reasonable diligence, any of the Parties may petition the Court to
4 amend Exhibit A. Prior to initiating any such petition to the Court, any party seeking an
5 amendment to Exhibit A plan shall provide notice of its intent to seek an amendment and shall
6 follow the meet and confer procedures outlined in Section VII.

7 **D. DHCS Guidance to Counties, Health Plans, and Fee-For-Service Providers**

8 In addition to any specific actions called for in Exhibit A, DHCS, in its reasonable
9 discretion, will communicate with counties, health plans, programs overseen by the Medi-Cal
10 Behavioral Health (“MCBHD”) Division and by California Children’s Services (“CCS”), and fee-
11 for-service providers as necessary or appropriate to effectuate the terms of this Agreement.

12 **E. Monitoring Protocol**

13 The Parties agree to the monitoring protocol attached as Exhibit B. In the event the
14 monitoring protocol needs to be adjusted, DHCS and Plaintiffs may stipulate or, upon a showing
15 of good cause and reasonable diligence, any of the Parties may petition the Court to amend the
16 monitoring protocol attached as Exhibit B. Prior to initiating any such petition to the Court, any
17 party seeking an amendment to the implementation plan shall provide notice of its intent to seek
18 an amendment and shall follow the meet and confer procedures outlined in Section VII below.

19 **F. Determination of Notice Date When Alternative Format Provided**

20 DHCS and Plaintiffs sought and obtained guidance from the Centers for Medicare and
21 Medicaid Services (CMS) regarding the issue of a Written Material in an Alternative Format that
22 is not issued contemporaneously with a Written Material in a standard format in which the
23 visually impaired Medi-Cal beneficiary must respond to the Written Material by a specific
24 deadline. In accordance with the guidance provided by CMS, DHCS agrees that in order for
25 notice prior to an adverse action, denial, or a change in eligibility or benefits described in 42
26 C.F.R. §§ 435.917(a) and 431.206-431.214, to be considered to provide adequate notice, such
27 notice must be provided in an accessible format under 42 C.F.R. § 435.905(b) requested by and/or
28

1 approved for the beneficiary. DHCS further agrees to determine related timelines for responding
2 to any deadline based upon the date notice in an accessible format was provided.

3 Additionally, DHCS will provide guidance to counties, health plans, programs overseen by
4 the Medi-Cal Behavioral Health (“MCBHD”) Division and by California Children’s Services
5 (“CCS”), and fee-for-service providers regarding determinations of notice dates from the date
6 when alternative formats are provided.

7 **G. Website Accessibility**

8 DHCS agrees to ensure that websites and web-based applications within DHCS’s exclusive
9 control are in compliance with applicable state and federal laws regarding website accessibility.

10 In the event that DHCS-managed websites and web-based applications undergo substantive
11 modifications, DHCS agrees to notify Plaintiffs’ counsel if usability testing occurs for such
12 applications and websites pursuant to the terms set forth in Exhibit B. If accessibility barriers are
13 identified in testing, DHCS shall take appropriate steps to resolve and re-test those barriers until
14 they are resolved.

15 The Agreement addresses the accessibility of the websites, web content, and mobile
16 applications within DHCS’s exclusive control. Therefore, the release in Paragraph IX does not
17 apply to claims regarding the accessibility of websites, web content, and mobile applications that
18 form part of the Medi-Cal system but are not within DHCS’s exclusive control.

19 **V. OBLIGATIONS OF COUNTY DEFENDANTS**

20 The County Defendants acknowledge that they are subject to the Disability Access Laws
21 and shall (1) fully cooperate with DHCS’s plan for the provision of Effective Communication to
22 blind individuals, as described in this Settlement Agreement, including the attachments; such
23 cooperation shall include following DHCS’s instructions regarding the provision of Effective
24 Communication; (2) provide training to all County employees who directly interact with Medi-
25 Cal applicants or recipients regarding the provision of Effective Communication; (3) have at least
26 one employee who is trained and available to answer questions about Effective Communication;
27 and (4) shall monitor their own compliance with DHCS’s plan. By agreeing to these terms, the
28 County Defendants are not admitting or implying that they have not been cooperating with

1 DHCS, following DHCS's instructions, or training their employees regarding Effective
2 Communications.

3 The County Defendants acknowledge that they may request from DHCS any information or
4 other guidance necessary for the implementation of DHCS's plan within their respective counties.

5 Consistent with 28 CFR § 35.160 and 28 CFR § 35.164, the County Defendants shall
6 provide Named Plaintiffs being served by County Defendants with Written Materials in the
7 Standard Alternative Format they have requested, except that the County of Alameda shall
8 provide Plaintiff Dennis Gassaway with County support, which shall include County staff reading
9 print documents to him over the phone, unless any of the Named Plaintiffs requests Written
10 Materials in a different Alternative Format.

11 **VI. DURATION OF THE AGREEMENT**

12 The Agreement will terminate two years after completion of the Implementation Plan set
13 forth in Exhibit A.

14 **VII. ADR PROCESS FOR DISPUTE RESOLUTION**

15 During the time-period of the Implementation Plan attached as Exhibit A or as amended,
16 the Parties through the undersigned counsel agree to resolve any disputes concerning the
17 Agreement via the following steps:

18 **A. Step One - Notice**

19 Counsel shall send a letter concerning any dispute, and the Parties shall meet and confer in
20 good faith to resolve any dispute.

21 **B. Step Two – Mediation**

22 In the event the Parties are unable to resolve their dispute through meet and confer
23 negotiations, within no less than thirty (30) days of receipt of the letter raising the dispute, the
24 Parties shall request that the U.S. District Court of the Northern District of California's ADR
25 Program convene a conference for the parties to discuss the dispute.

26 **C. Step Three – Motion Concerning Agreement**

27 If the ADR process does not successfully resolve the dispute, the aggrieved party may file a
28 motion with the Court regarding the Agreement. The Parties agree that Judge Maxine Chesney

1 shall continue to have jurisdiction to fully resolve any such dispute. If Judge Chesney becomes
2 unavailable, the Parties agree to accept the jurisdiction of any other Judge assigned by the Federal
3 District Court for continuing jurisdiction purposes. Attorneys' fees and costs in connection with
4 the proceedings under this step shall be recoverable under applicable law.

5 **VIII. ATTORNEYS' FEES AND COSTS**

6 Plaintiffs will seek, and Defendants agree not to oppose, Plaintiffs' request to the Court for
7 \$1,550,000 for attorneys' fees and costs incurred by Plaintiffs in bringing and prosecuting the
8 Action and monitoring the implementation of the Settlement Agreement, except as provided for
9 in paragraph VII(C). Upon service of an order awarding fees, DHCS agrees to submit payment
10 for all counsel in the amount of \$1,550,000 to Disability Rights California. Plaintiffs have
11 requested that DHCS shall make payment by check payable to Disability Rights California.
12 Within 15 days of the Court's order granting fees and costs, Plaintiffs' counsel will complete and
13 return to DHCS the form entitled "Payee Data Record" (standard form 204), that gives the name,
14 address, and tax identification number of Disability Rights California for tax reporting purposes.
15 If payment is not made within 90 days of the effective date of the appropriation or budget
16 authority obtained by DHCS, whichever is sooner, DHCS shall be responsible to pay interest on
17 the payment, pursuant to Civil Code section 3287, subdivision (c), from 90 days after the
18 effective date of the appropriation or budget authority obtained by DHCS, as applicable, until the
19 date payment is rendered in full. Plaintiffs agree that any payment pursuant to this paragraph is
20 contingent upon DHCS obtaining the necessary appropriation and budget authority. Plaintiffs
21 agree that the payment of the amount ordered by the Court shall constitute full and complete
22 satisfaction of all attorneys' fees and costs arising out of this lawsuit, and upon receipt of this
23 payment, Plaintiffs release Defendants from any further liability for Plaintiffs' attorneys' fees and
24 costs. This release does not extend to the enforcement of the settlement as provided in paragraph
25 VII(C).

26 **IX. RELEASE**

27 Upon the Effective Date of Agreement, and with the exception of any actions necessary to
28 enforce the Agreement prior to its termination, the Named Plaintiffs and Putative Class Members,

1 along with their respective current or former trustees, beneficiaries, insurers, successors, assigns,
2 legatees, heirs, partners, agents, personal representatives, and all other individuals or entities
3 acting on a Named Plaintiff or Putative Class Member's behalf, shall release, forever discharge,
4 and will not in any manner pursue all claims, rights, demands, charges, complaints, actions, suits,
5 and causes of action asserted in the Action through the Effective Date of Settlement against
6 Defendants DHCS, Michelle Baass, County of Alameda, County of Contra Costa, County of San
7 Diego, DHCS's current or former directors, officers, administrators, agents, employees, divisions,
8 branches, units, contractors, successors, and assigns, and all other individuals and entities legally
9 acting on behalf of Defendants. Entities not listed by name in this paragraph remain liable for
10 their own obligations under the Disability Access Laws. This release does not apply to claims for
11 damages.

12 **X. PROCEDURES FOR APPROVAL OF CLASS SETTLEMENT**

13 **A. Joint Application for Preliminary Approval**

14 Solely for the purpose of effectuating the Settlement Agreement, and subject to Court
15 approval, the Parties hereby stipulate to the Settlement Class and to the appointment by the Court
16 of Class Counsel for the purposes of implementing and monitoring this Settlement Agreement.

17 The Parties will jointly prepare and file an application for Preliminary Approval with the
18 Court and take all other steps necessary to request a Final Fairness Hearing pursuant to Rule 23(e)
19 of the Federal Rules of Civil Procedure, and to seek the Court's Preliminary Approval of the
20 Settlement Agreement.

21 If the Court does not grant Preliminary Approval of this Settlement Agreement for any
22 reason, or if any motions or appeals are filed by third parties prior to Preliminary Approval, the
23 Parties shall meet and confer to determine whether this Settlement Agreement can be amended or
24 modified in a manner so as to secure the Preliminary Approval. If this is not attainable, this
25 Settlement Agreement shall be null and void.

26 **B. Notice to Class**

27 Within 60 days of the Court's granting of Preliminary Approval of the Settlement
28 Agreement, the Parties will provide notice to the Settlement Class by posting the Notice attached

1 hereto as Exhibit C on the websites of the California Council of the Blind, DHCS, Disability
2 Rights California, Disability Rights Education and Defense Fund, and Disability Rights
3 Advocates, along with information as to how to request a copy of the notice. Additionally, a short
4 form of the Notice will be included in the next quarterly *Jackson v. Rank* mailing after the Court
5 grants Preliminary Approval of the Settlement Agreement.

6 Upon request, the Notice will be available in English, Spanish, and other threshold
7 languages, as defined by paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of the
8 California Code of Regulations. Upon request, the Notice will be available in Alternative
9 Formats, unless DHCS reasonably determines that providing the Notice in the requested format is
10 unduly burdensome pursuant to 28 C.F.R. § 35.164. DHCS will report any such determinations as
11 part of the final approval process and explain why the rejected request format was unduly
12 burdensome.

13 **C. Objections**

14 Any Settlement Class member or legal representative of a Settlement Class member who
15 wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement, or the
16 fees and costs allocated for Class Counsel must submit an Objection on or before the Objection
17 Deadline.

18 Objections should contain the following information:

- 19 1. The case name and or number: *Hinkle, et al. v. Baass, et al.*, Case No. 3:18-cv-
20 06430 MMC;
- 21 2. The Objector's name and county of residence;
- 22 3. If the Objection is being submitted by the legal representative of a Settlement
23 Class member, the name of that legal representative;
- 24 4. Whether the Objection applies only to the Objector, to a specific subset of the
25 Settlement Class, or to the entire Settlement Class;
- 26 5. The specific grounds for the objection; and
- 27 6. Whether the Objector or their legal representative wishes to speak at the Final
28 Fairness Hearing.

1 Objections must be submitted in person at the U.S. District Court for the Northern District
2 of California, by U.S. Mail, by leaving a voice mail on a dedicated phone line that Disability
3 Rights California will set up and monitor, or by completing a web-based form that Disability
4 Rights California will set up and monitor. If submitted by U.S. Mail, Objections must be
5 postmarked by the Objection Deadline. The date of the postmark on the envelope containing the
6 written statement objecting to the Settlement shall be the exclusive means used to determine
7 whether an Objection and/or intention to appear has been timely submitted. In the event a
8 postmark is illegible, the date of the mailing shall be deemed to be five days prior to the date that
9 the copy of the Objection was received. If submitted by voice mail or web-based form, Settlement
10 Class Members must record such Objections by the Objection Deadline, and Disability Rights
11 California shall have seven days to convey such Objections to the Court.

12 Settlement Class Members who fail to submit timely Objections in the manner specified
13 above shall be deemed to have waived any objections and shall be forever barred from making
14 any objection to the Settlement Agreement by appearing at the final fairness hearing, appeal,
15 collateral attack, or otherwise.

16 Any Objector or legal representative thereof who timely submits an Objection has the
17 option to appear and request to be heard at the Final Fairness Hearing, either in person or through
18 the Objector's counsel. Any Objector or legal representative thereof wishing to appear and be
19 heard at the Final Fairness Hearing must state this intention in their Objection. Objectors who fail
20 to include a notice of their intention to appear in a timely filed Objection may not speak at the
21 Final Fairness Hearing without permission of the Court.

22 If an Objector makes an Objection through an attorney, the Objector shall be solely
23 responsible for the Objector's attorneys' fees and costs.

24 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
25 Settlement Class Members to submit Objections to the Settlement Agreement or encourage
26 appeal from the Court's Final Approval Order.

1 **D. Joint Application for Final Approval & Final Fairness Hearing**

2 The Parties will jointly prepare an application for and seek Final Approval from the Court
3 pursuant to Rule 23(e) of the Federal Rules of Civil Procedure.

4 Objectors or legal representatives thereof who intend to appear at the final fairness hearing
5 and require accommodations, including objectors who need to appear at the hearing remotely due
6 to a disability, may request them from the Court pursuant to the Court's policies and practices on
7 reasonable accommodations.

8 Class Counsel and DHCS shall each post a copy of the Final Approved Settlement
9 Agreement on their respective websites for at least a one-year period following the Court's Final
10 Approval.

11 **E. Effect If Settlement Not Approved**

12 The Settlement Agreement is being entered into for settlement purposes only. If the Court
13 does not grant Preliminary Approval, if the Court does not grant Final Approval, or if the
14 Effective Date of Settlement does not occur, the Settlement Agreement will be deemed null and
15 void *ab initio*. In that event:

- 16 a. The Preliminary Approval Order and Final Approval Order, to the extent they
17 have been entered by the Court, will be vacated by operation of law;
- 18 b. The Parties will be restored to their respective positions immediately
19 preceding the execution of the Settlement Agreement, and any intervening
20 Court rulings or decisions will be vacated;
- 21 c. No term or condition of the Settlement Agreement, or any draft thereof, of
22 any discussion, negotiation, documentation, or other part or aspect of the
23 Parties' settlement discussions shall have any effect; nor shall any such
24 matter be admissible in evidence for any purpose in the Federal or State
25 Action or any other proceeding; nor shall any such matter be used in the
26 Federal or State Action for any purpose whatsoever; and
- 27 d. Parties will retain all rights to object to any attempt by any Party to reference,
28 cite to, or rely upon, in any way, the Settlement Agreement or any factual or

1 legal statement or conclusion within it, including as to (i) the sufficiency of
2 any particular action(s) to satisfy obligations under the Disability Access
3 Laws; or (ii) the feasibility of the maintenance of this matter as a class action.

4 **F. Modifications Suggested by the Court**

5 If the Court suggests any modifications to the Settlement Agreement or conditions either
6 Preliminary Approval or Final Approval on modifications to the Settlement Agreement, the
7 Parties shall, working in good faith and consistent with the Settlement Agreement, endeavor to
8 cure any such deficiencies identified by the Court. However, the Parties shall not be obligated to
9 make any additions or modifications to the Settlement Agreement that would affect the benefits
10 provided to Settlement Class Members, or the cost to or burden on Defendants, the content or
11 extent of Notices required to Settlement Class Members, or the scope of any of the releases
12 contemplated in this Settlement Agreement. If the Court orders or proposes such additions or
13 modifications, the Parties will have the right to terminate the Settlement Agreement within 30
14 days from the date of the Court's order or proposal.

15 If either Party elects to terminate the Settlement Agreement pursuant to this section, the
16 Settlement Agreement will be deemed null and void *ab initio*.

17 **XI. DISMISSAL AND RETENTION OF JURISDICTION**

18 Within one year after final approval of this Settlement Agreement by the Court, the Parties
19 shall jointly ask the Court to dismiss this action and to retain jurisdiction over this matter for the
20 purpose of ensuring compliance with the terms of the Settlement Agreement.

21 **XII. MISCELLANEOUS**

22 **Entire Agreement:** This Settlement Agreement constitutes the sole, entire, and complete
23 agreement between the Parties to resolve the Action. No promise, inducement, or agreement not
24 expressed in this Agreement has been made. The terms of the Settlement Agreement are
25 contractual and not a mere recital. As such, any modifications to the Settlement Agreement must
26 be set forth in writing and signed by the Parties.

27 **Exhibits:** The terms of all Exhibits attached hereto are fully incorporated into this
28 Agreement and are an integral part thereof. The terms of this Agreement, where applicable, are

fully incorporated into all Exhibits and are, where applicable, an integral part thereof. To the extent that there are any conflicts or inconsistencies between the terms of this Agreement and any of the Exhibits, the terms of this Agreement shall control.

Headings: The headings used in this Settlement Agreement are for the convenience of the Parties only and shall not aid in the interpretation or construction of the Settlement Agreement.

Counterparts: This Agreement may be executed in counterparts, each of which shall be considered an original, but all of which, when taken together, shall constitute one and the same instrument.

Interpretation: This Agreement is deemed to have been drafted by all Parties hereto, as a result of arm's length negotiations among the Parties. Whereas all Parties have contributed to the preparation of this Agreement, it shall not be construed more strictly against one party than another. Where required by context, the plural includes the singular and the singular includes the plural.

Severability: In the event any portion of this Agreement is deemed to be unenforceable, or is in conflict with applicable law, the remainder of this Agreement shall be enforced and shall remain in full force and effect.

Date: 11/1/2024

Sarah Harris

Sarah Harris for Plaintiff California Counsel of the Blind

Date: 11/1/2024

Wylene Hinkle

Lena Hinkle, Plaintiff

Date:

Dennis Gassaway, Plaintiff

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 13 plural.

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 15 is in conflict with applicable law, the remainder of this Agreement shall be enforced and shall
 16 remain in full force and effect.

17
 18 Date: _____

Sarah Harris for Plaintiff California Counsel of
 the Blind

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 22 Date: _____

Lena Hinkle, Plaintiff

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 24
 25 Date: 9-26-24

 

Dennis Gassaway, Plaintiff

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2 Date: November 8, 2024

Michelle
Baass

Digitally signed by
Michelle Baass
Date: 2024.11.08
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Michelle Baass for Defendants Department of
Health Care Services and Michelle Baass,
Director of Department of Health Care Services

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7 Date: _____

Marla Stuart, MSW PhD
Director, Employment & Human Services
Department
for Defendant Contra Costa County

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12 Date: 10/28/2024



13 NATE MILEY
14 President of the Board of Supervisors
for Defendant County of Alameda

15
16
17 Date: _____

KIMBERLY GIARDINA, DSW, MSW
Deputy Chief Administrative Officer
Health and Human Services Agency
for Defendant County of San Diego

18
19
20 Approved as to form:

21
22 DISABILITY RIGHTS CALIFORNIA

23 Date: _____

24 AUTUMN M. ELLIOTT
25 MELINDA BIRD
26 ELIZABETH ZIRKER
27 *Attorneys for Plaintiffs*
28

1
2 Date:

Michelle Basss for Defendants Department of
Health Care Services and Michelle Baass,
Director of Department of Health Care Services

3
4
5
6
7 Date: 10/23/24



Marla Stuart, MSW PhD
Director, Employment & Human Services
Department
for Defendant Contra Costa County

8
9
10
11
12 Date:

NATE MILEY
President of the Board of Supervisors
for Defendant County of Alameda

13
14
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16
17 Date:

KIMBERLY GIARDINA, DSW, MSW
Deputy Chief Administrative Officer
Health and Human Services Agency
for Defendant County of San Diego

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19
20 Approved as to form:

DISABILITY RIGHTS CALIFORNIA

21
22
23 Date:

AUTUMN M. ELLIOTT
MELINDA BIRD
ELIZABETH ZIRKER
Attorneys for Plaintiffs

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Date: Michelle Basss for Defendants Department of Health Care Services and Michelle Baass, Director of Department of Health Care Services

Date: Marla Stuart, MSW PhD
Director, Employment & Human Services
Department
for Defendant Contra Costa County

Date: NATE MILEY
President of the Board of Supervisors
for Defendant County of Alameda

Date: 10/24/24
KIMBERLY GIARDINA, DSW, MSW
Deputy Chief Administrative Officer
Health and Human Services Agency
for Defendant County of San Diego

Approved as to form: DISABILITY RIGHTS CALIFORNIA

Date: AUTUMN M. ELLIOTT
MELINDA BIRD
ELIZABETH ZIRKER
Attorneys for Plaintiffs

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Date: _____

Michelle Basss for Defendants Department of
Health Care Services and Michelle Baass,
Director of Department of Health Care Services

Date: _____

Marla Stuart, MSW PhD
Director, Employment & Human Services
Department
for Defendant Contra Costa County

Date: _____

NATE MILEY
President of the Board of Supervisors
for Defendant County of Alameda

Date: _____

KIMBERLY GIARDINA, DSW, MSW
Deputy Chief Administrative Officer
Health and Human Services Agency
for Defendant County of San Diego

Approved as to form:

DISABILITY RIGHTS CALIFORNIA

Date: 11/6/2024 _____

Autumn Elliott
AUTUMN M. ELLIOTT
MELINDA BIRD
ELIZABETH ZIRKER
Attorneys for Plaintiffs

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DISABILITY RIGHTS ADVOCATES

Date 11/4/2024

Shawna Parks
SHAWNA PARKS
REBECCA S. WILLIFORD
Attorneys for Plaintiffs

DISABILITY RIGHTS EDUCATION AND
DEFENSE FUND

Date 11/6/2024

Silvia Yee
SILVIA YEE
Attorneys for Plaintiffs

OFFICE OF THE ATTORNEY GENERAL

Date

DANE CHRISTIAN BARCA
Attorneys for Defendants
Michelle Baass, Director of the California
Department of Health Care Services (DHCS)
and DHCS

MOSCONE EMBLIDGE & RUBENS LLP

Date:

G. SCOTT EMBLIDGE
Attorney for Defendants Contra Costa County,
County of Alameda, and County of San Diego

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DISABILITY RIGHTS ADVOCATES

SHAWNA PARKS
REBECCA S. WILLIFORD
Attorneys for Plaintiffs

DISABILITY RIGHTS EDUCATION AND
DEFENSE FUND

SILVIA YEE
Attorneys for Plaintiffs

OFFICE OF THE ATTORNEY GENERAL

Date



DANE CHRISTIAN BARCA
Attorneys for Defendants
Michelle Baass, Director of the California
Department of Health Care Services (DHCS)
and DHCS

MOSCONE EMBLIDGE & RUBENS LLP

Date:

G. SCOTT EMBLIDGE
Attorney for Defendants Contra Costa County,
County of Alameda, and County of San Diego

1 DISABILITY RIGHTS ADVOCATES

2
3 SHAWNA PARKS
4 REBECCA S. WILLIFORD
5 *Attorneys for Plaintiffs*

6 DISABILITY RIGHTS EDUCATION AND
7 DEFENSE FUND

8
9 SILVIA YEE
10 *Attorneys for Plaintiffs*

11 OFFICE OF THE ATTORNEY GENERAL

12 Date

13
14 DANE CHRISTIAN BARCA
15 *Attorneys for Defendants*
16 *Michelle Baass, Director of the California*
17 *Department of Health Care Services (DHCS)*
18 *and DHCS*

19 MOSCONE EMBLIDGE & RUBENS LLP

20 Date: October 23, 2024

21
22 *G. Scott Emblidge*
23 G. SCOTT EMBLIDGE
24 *Attorney for Defendants Contra Costa County,*
25 *County of Alameda, and County of San Diego*
26
27
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Exhibit A

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

*as of 12/22/22

Alternative Formats (AF) Project – Major Activities and Milestones	Implementation Dates	Status
Outreach		
Receive Last Set of Feedback for the Outreach Letter (milestone)	April 2020	Completed
<ul style="list-style-type: none"> ➤ Mail Outreach Letter to BVI Aid Code Beneficiaries (Phase 1, approximately 10,500 beneficiaries) Translate Outreach Letter (large print) ➤ Cross-reference Updated List of IHSS Recipients with MEDS for BVI Aid Codes ➤ Generate Outreach Letter for BVI Aid Codes (minus IHSS recipients) ➤ Mail Outreach Letter ➤ Update AF Selection (IT) Application & Database of Beneficiaries' Mailed-In Responses 	Q3 2020	Completed
Mail Outreach Letter to Disabled & Working Disabled Aid Code Beneficiaries (Phase 2, <i>approximately 1 million</i> Beneficiaries)	Q2 - Q4 2021	Completed
Inform Remainder of Medi-Cal Population of AF options via Two (2) non-consecutive JVR quarterly mailings (Phase 3)	2022	Completed
AF Selection (IT) Application		
<ul style="list-style-type: none"> ➤ Design, Build, Test, Deploy, and Maintain Interim AF Selection IT Application. The IT application is an online platform via which beneficiaries and applicants may submit requests for written communications in Alternative Formats at any time. ➤ Develop Maintenance and Operation Procedures for the IT Application ➤ Establish Process Importing List of IHSS Recipients' AF Preferences collected by CDSS into the IT Application's Database; Import List ➤ Establish Process Loading Other DHCS Lists of Beneficiaries' AF Preferences into the IT Application's Database; Load List <p>Note:</p> <ol style="list-style-type: none"> 1. <i>The IT application and AF vendor call center are interim solutions until the long term solution of the paper & electronic applications and respective system changes are implemented into production status.</i> 2. <i>Beneficiaries, DHCS Staff, Counties (including county mental health plans), Managed Care Plans, and the AF Vendors are able to utilize this interim centralized solution to enter, upload, and track beneficiaries' AF selections. If and when an automated system is implemented, these AF selections will be transferred from the interim centralized solution to the automated system.</i> 	Q2 2020	Completed

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

Alternative Formats (AF) Project – Major Activities and Milestones	Implementation Dates	Status
AF Feedback Loop		
Implement AF Vendor Call Center. The AF vendor call center allows beneficiaries and applicants to submit requests for written communications in Alternative Formats by phone and obtain updates on the status of such requests.	Q2 2020	Completed
Create and maintain centralized database to collect and store identifying information for people who have requested Alternative Formats and their requested methods of communication <i>Note:</i> <i>The centralized database described above is an interim solution until the long term solution of the paper & electronic applications and respective eligibility system changes are implemented into production status. At that point, the data from the centralized database will be transferred to the applicable eligibility and enrollment/data system(s).</i>	Q2 2020	Completed
Establish process to distribute updated beneficiaries' AF selections to DHCS program divisions, Counties (including county mental health plans), Managed Care Plans, and DHCS' Administrative Contractors to be utilized in written communication <i>Note:</i> <ol style="list-style-type: none"> 1. DHCS has established an automated process to distribute AF selections weekly to and from DHCS program divisions, their partners, and counties 2. The distribution to some partners are dependent on the readiness of policy/plan letters or contracts 	Start 2020	Completed
Develop and distribute AF package including AF Selection (IT) Application User Guide, Call Script, and Alternative Format FAQs to programs and partners.	Start 2021	Completed. Distribute updates as needed
Develop and implement training for all DHCS employees regarding AF obligations and processes	Q2 2023	In Progress. Training will continue as needed.
Alternative Format Mailing		
Provide information and instructions to counties, managed care plans, fee-for-service providers, and other components of the Medi-Cal program regarding their obligations to provide effective communication to Blind and visually-impaired individuals <i>Note:</i> <i>DHCS will update the information and instructions provided to these entities as needed. DHCS will also timely send out updated guidance upon deployment of CALSAWS or similar fully automated system(s).</i>	Started Q3 2020 and ongoing	Completed
Have a manual process in place for sending applicable documents in beneficiaries' requested Alternative Formats.	Q1 2023	Complete

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

Alternative Formats (AF) Project – Major Activities and Milestones	Implementation Dates	Status
<p>*This applies to counties and plans and any other contracted entities. In the meantime, counties and plans should be sending out documents in AF to the best of their ability.</p> <ul style="list-style-type: none"> ➤ <i>DHCS will have a manual system for sending timely and accessible notices in the requested Alternative Format, and sending individualized notices in the requested Alternative Format within a reasonable timeframe.</i> ➤ <i>Ensure adequate quality control process are in place for Alternative Format conversions, including proofreading of Braille documents by a certified Braille proofreader.</i> ➤ <i>Mailings that contain accompanying materials in standard print will contain a tagline in the Alternative Format requested by the individual that informs them that such materials do not affect their Medi-Cal eligibility, enrollment, or benefits, along with a phone number that can be called for more information about the accompanying materials. As DHCS creates or updates Medi-Cal materials after the Effective Date of this Settlement for distribution to current or prospective Medi-Cal beneficiaries, DHCS will evaluate where it is possible to design the newly created or updated materials so that they can be produced in the Alternative Formats agreed upon in the Settlement. In cases where it is possible, DHCS will make appropriate efforts to design such DHCS-produced materials so that they can be produced in the Alternative Formats agreed upon in the Settlement.</i> ➤ <i>Develop and distribute tagline to programs and partners.</i> 		
Conversion of Standard Notices/Letters/Communications in Alternate Formats		
<ul style="list-style-type: none"> ➤ Produce a List of Medi-Cal Notices/Letters/Communications to be converted to Alternative Format ➤ Pre-convert the Notices/Letters/Communications to Large Print <p>Note:</p> <ol style="list-style-type: none"> 1. <i>AF Vendor will provide the Notices/Letters/Communications in Audio/Data CD/Braille formats in accordance with the beneficiary's alternative format request on record.</i> 2. <i>The list was initially prioritized in three tiers. DHCS has determined that some publications need to have policy changes and be revised, and some publications have become obsolete. This has necessitated revisions to the list and remains an iterative process. DHCS has established a process to share the pre-converted publications to programs and counties.</i> 	Start Q3 2020	Completed

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

Alternative Formats (AF) Project – Major Activities and Milestones	Implementation Dates	Status
Create Fillable .PDF Notices/Letters/Communications		
<ul style="list-style-type: none"> ➤ Identify the List Fillable Notices/Letters/Communications to Convert ➤ Convert Fillable Notices/Letters/Communications to Large Print <p><i>Note:</i></p> <ol style="list-style-type: none"> 1. <i>Fillable PDFs are mostly templates to generate written communications to beneficiaries with fillable fields by county eligibility workers</i> 2. <i>The conversion of Fillable PDFs are done by vendor and verified by DHCS</i> 	Q3 2020	Completed
Long Term Applications & System Changes		
DHCS will ensure that all of the websites, web content, and mobile applications within its exclusive control conform with the standards published by the World Wide Web Consortium (“W3C”), including Web Content Accessibility Guidelines (“WCAG”) 2.1 AA.	Ongoing	Ongoing
<p>Enhance Medi-Cal Application – Paper and Electronic – to Enable Applicants to Select AF Preferences</p> <ul style="list-style-type: none"> ➤ Design changes to paper and electronic applications in collaboration with CDSS ➤ Submit Draft Changes to CMS for Approvals ➤ Obtain Approvals from CMS 	2021-2023	<p>In progress</p> <p>Proposed change to Medi-Cal Application (paper) was submitted to CMS for Approval in March 2022</p>
<p>Convert Approved, Enhanced Medi-Cal Paper Application to Alternate Formats</p> <ul style="list-style-type: none"> ➤ Distribute to Counties and all entities that utilize the Medi-Cal Application ➤ Go-Live with Paper Application (synchronize with electronic application go-live date) 	2024	In Planning
<p>Prerequisite: Completion of CalSAWS Migration 2023</p> <p>Enhance electronic Medi-Cal Application and IT systems to receive, store and track the alternate format selection from Medi-Cal applicants and to automatically send notices in the requested alternate format.</p> <ul style="list-style-type: none"> ➤ Define Business Requirements for the Electronic Applications & System Changes to CalHEERS, CalSAWS, and MEDS systems (includes online screens and databases) ➤ Inform Interested Stakeholders of Upcoming Changes to Paper & Electronic Applications ➤ Design, Develop, Test, Deploy, and Maintain the Electronic Application & System Changes 	2025	<p>In Planning</p> <p>Change Request was submitted to CalHEERS (CalSAWS) and put in the roadmap for 2024</p>

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

Alternative Formats (AF) Project – Major Activities and Milestones	Implementation Dates	Status
<p>Enhance existing interfaces to synchronize with the paper and electronic application changes.</p> <p>➤ Implement changes to the interface between CalSAWS and MEDS, and the interface between CalHEERS and MEDS, in order to facilitate the routine exchange of accurate alternate format selection information between these systems and to ensure consistency of information among relevant entities concerning individuals' alternative format choices.</p> <p>Collaborate with CDSS for changes to the interfaces between CDSS' systems (Ex: ACMS, CMIPS, etc.) and MEDS to exchange alternate format selection information as often as practicable, and on at least a quarterly basis with CDSS Programs as appropriate for programs/services that CDSS administers on DHCS' behalf.</p> <p><i>Note: Changes to interfaces must be synchronized with the go-live date for paper and electronic applications and system changes.</i></p>	2025	In Planning
Have the automated process in place for sharing AF requests with counties, plans, and contractors	December 2024	In Planning

ACCESSIBILITY FORMATS OF MEDI-CAL NOTICES – IMPLEMENTATION PLAN

Acronyms:

- BVI – Blind & Visually Impaired
- CalHEERS – California Healthcare Eligibility, Enrollment, and Retention System
- CalSAWS – California Statewide Automated Welfare System
- CDSS - California Department of Social Services
- CMS – Centers for Medicare & Medicaid Services
- IHSS – In-Home Support Services
- IT – Information Technology
- JVR – Jackson v. Rank
- MEDS – Medi-Cal Eligibility Data System

Appendix: Policy Guidance Letter Timelines by Program	
Program/Division	Date of Releasing Policy Guidance Letter*
Managed Care Operations Division (MCOD)	3/14/2022
Medi-Cal Eligibility Division (MCED)	11/30/2021
Integrated Systems of Care Division (ISCD) Program of All-Inclusive Care for the Elderly (PACE)	3/30/2022
ISCD - California Children's Services (CCS) and Genetically Handicapped Persons Program (GHPP)	3/30/2022
Third-Party Liability and Recovery Division (TPLRD)	12/1/2020
Medi-Cal Dental Services Division (MDSD) Division - Dental Managed Care	9/12/2022
Medi-Cal Dental Services Division (MDSD) Division - Dental Fee-For-Service (FFS)	7/23/2020
California Medicaid Management Information System (CA-MMIS) Operations Division	11/10/2021
Medi-Cal Behavioral Health Division	Under internal review

Exhibit B

Hinkle et al. v. Baass et al.
N.D. Cal., Case No 3:18-CV-06430-MMC
Settlement Agreement

EXHIBIT B – MONITORING PROTOCOL

During the operative period of the Settlement Agreement, the parties agree to the following Monitoring Protocol. The parties further agree that any information provided under this protocol will be in accordance with DHCS's Data De-Identification Guidelines, and that the data DHCS has agreed to provide to Class Counsel herein complies with DHCS's Data De-Identification Guidelines.

1. Starting on the Effective Date, DHCS shall provide Class Counsel with drafts of non-released, written guidance documents referenced in Section IV(D) of the Agreement and external communications identified in the Implementation Plan for review prior to release for public comment. Class Counsel shall have 14 days from the date of receipt to provide comments to DHCS. DHCS shall consider Class Counsel's comments in finalizing such external communications and shall provide Class Counsel with the final version of such documents. DHCS retains reasonable discretion to determine the final terms of written guidance documents and will issue such guidance consistent with 28 C.F.R. § 35.160.
2. DHCS shall provide Class Counsel with notice of when DHCS-controlled websites and web-based applications are undergoing user testing. Class Counsel will timely inform DHCS whether any of its clients will participate in such testing and provide feedback regarding accessibility and usability of tested features for Class Members. DHCS retains reasonable authority to determine the protocols and methodology employed in conjunction with user testing to ensure maximum consideration of the needs of Blind and visually-impaired individuals regarding effective communication consistent with 28 C.F.R. §§ 35.160–164.
3. Monitoring of county welfare/Medi-Cal services offices:
 - a. Every six (6) months until the Agreement's termination, DHCS will share with Class Counsel reports with county-by-county information for the 25 counties with the highest number of Alternative Format requests, and aggregate information for the remaining counties, regarding the total number of beneficiaries requesting and receiving each type of Alternative Format.
 - b. DHCS will review and consider on a semi-annual basis the data contained in these reports and any other relevant data collected or received by DHCS that is not reported to Plaintiffs, along with any beneficiary or applicant complaints received by DHCS regarding counties' provision of Alternative Formats.
 - c. If DHCS's review of this data reveals recurring issues regarding any county's provision of Alternative Formats, DHCS will confer and work with the county regarding any corrective action that may be needed. DHCS will provide summaries of issues identified to Class Counsel including the counties in which they were identified.

Hinkle et al. v. Baass et al.
N.D. Cal., Case No 3:18-CV-06430-MMC
Settlement Agreement

4. Monitoring of managed care plans:
 - a. Within three years of the Effective Date, DHCS will build into its monitoring program a process for verifying the compliance of managed care plans with applicable requirements to provide Alternative Formats. The purpose of the compliance review is to ensure that managed care plans are complying with requests for Alternative Formats. The monitoring review will include information about (1) what managed care plans are doing to ensure that beneficiaries are aware of their right to receive Alternative Formats, (2) what requests for Alternative Formats have been made by beneficiaries, (3) what managed care plans are doing to respond to those requests in accordance with the law, and (4) what managed care plans are doing to respond to complaints about the receipt of Alternative Formats, or if that is not possible, the number of complaints that are received.
 - b. Every six (6) months prior to the Agreement's termination, DHCS will share with Class Counsel reports for each managed care plan that give the results of the compliance review in the categories outlined in section 4(a) of this document.
 - c. DHCS will review and consider on a bi-annual basis the data contained in these reports and any other relevant data collected or received by DHCS that is not reported to Plaintiffs, along with any beneficiary or applicant complaints regarding the managed care plans' response to requests for Alternative Formats.
 - d. To the extent the data indicates problems with a managed care plan's provision of Alternative Formats, DHCS will address the issue as part of its enforcement levers, which include but are not limited to, technical assistance, corrective action, and sanctions. DHCS will provide written notification of any imposed sanction to the managed care plan and post the notification on the DHCS website.
5. As specified in Section IV(A) of the settlement agreement, regarding Nonstandard Alternative Formats, DHCS will give primary consideration pursuant to 28 C.F.R. § 35.160(b)(2) to the choice of format requested by the applicant, beneficiary, or authorized representative. In the event a Nonstandard Alternative Format is requested and denied, DHCS will provide a written statement to the individual identifying the basis for the denial on either the ground that another equally effective means of communication is available or that the use of the Nonstandard format requested would result in a fundamental alteration or in an undue burden to the Medi-Cal program. 28 C.F.R. § 35.164. DHCS's OCR will not make a determination that another equally effective means of communication is available without consulting with the individual to identify whether other Alternative Formats may provide equally effective communication for that person.
6. All written statements regarding requests for Alternative Formats will provide the contact information for OCR in the event the requestor wishes to receive further assistance or to make a complaint.
7. During the duration of the settlement agreement, DHCS's OCR will accept and respond to complaints from individuals about Effective Communication disputes with a county, fee for service provider, managed care plan, managed care plan provider, or other Medi-Cal contractor regarding Medi-Cal in accordance with DHCS's Discrimination Grievance

Hinkle et al. v. Baass et al.
N.D. Cal., Case No 3:18-CV-06430-MMC
Settlement Agreement

Policies and Procedures, which is posted on DHCS's website. OCR will report every six (6) months to Class Counsel regarding the number of complaints received regarding Alternative Formats. These OCR reports will be provided in conjunction with the reports described in Paragraphs 3–4 above.

Exhibit C

IMPORTANT NOTICE

Notice of Proposed Settlement of a Class Action Lawsuit Concerning Blind and Visually Impaired Persons Who Receive or Apply for Medi-Cal Services

PLEASE PAY ATTENTION TO THIS NOTICE IF YOU ARE BLIND OR VISUALLY IMPAIRED AND RECEIVE MEDI-CAL SERVICES OR WANT TO APPLY FOR MEDI-CAL SERVICES.

YOUR RIGHTS MAY BE AFFECTED BY A PROPOSED SETTLEMENT AGREEMENT

NOTICE OF CLASS ACTION

In this notice, you will learn about a class action lawsuit and the proposed settlement to the lawsuit, which may impact your rights.

A **class action lawsuit** is brought by one or more people—called “**class representatives**”—filing a lawsuit on behalf of people who have similar claims. All of these people are called “**class members**.” In a **class action**, one court resolves the claims for all class members at the same time.

This Notice is about a proposed settlement (which we will call the “**Settlement Agreement**” or “**Settlement**”) that will resolve a class action lawsuit if the court approves it:

Hinkle v. Baass, U.S. District Court for the Northern District of California,
Case No. 3:18-cv-06430-MMC

This lawsuit was filed by three blind individuals and an organization, the California Council of the Blind. The individuals are called “class representatives.” The individuals participate in the Medi-Cal program and receive healthcare benefits from Medi-Cal. **They filed a class action lawsuit on behalf of themselves and other blind and visually impaired persons who participate in, or may apply for, the Medi-Cal program.**

The class representatives say in the lawsuit that the California Department of Health Care Services (DHCS) discriminated against blind and visually impaired persons who participate in the Medi-Cal Program. The class representatives believe this discrimination occurred when blind individuals received notices regarding the Medi-Cal program and benefits in print format, rather than in Braille or another alternative format.

DHCS denies all of the claims in the lawsuit. DHCS says that it always obeyed the law, and that it never discriminated against blind or visually impaired persons who participate in the Medi-Cal program.

However, the parties have agreed to certain things to end the lawsuit. These things are described below and are set out in detail in the Settlement Agreement. The court has to say that this agreement is ok before the lawsuit can end.

THE SETTLEMENT CLASS

The “**settlement class**” is a group of people who will be affected by the Settlement Agreement. You are a member of the settlement class if:

1. You are a Medi-Cal beneficiary or applying or wish to apply to become a Medi-Cal beneficiary; **and**

2. You are blind. “Blind” includes all persons who, under state or federal civil rights laws, have a vision-related disability that limits the major life activity of seeing, and require alternative methods to access standard print information. Any reference to applicants or beneficiaries also includes Blind individuals who are representing or otherwise assisting a Medi-Cal applicant or beneficiary.

SUMMARY OF THE SETTLEMENT AGREEMENT

Plan to Enhance Alternative Format Options for Blind People

DHCS will do the following things:

- ensure that **any method by which individuals may apply for Medi-Cal**, may start the Medi-Cal eligibility process, may respond to the Medi-Cal redetermination process, or may review or correct application and eligibility information **allows Blind Individuals to say if they want to receive written materials in alternative formats**;
- **have an online form** that blind individuals can use to tell DHCS that they need to receive Written Materials in Alternative Formats;
- **provide all written materials** that pertain to a blind individual’s Medi-Cal benefits or application **in the format requested by the individual, including standard alternative formats like large print, Braille, and audio and electronic formats**;
- **inform individuals that they can also request other, non-standard alternative formats**. DHCS will refer such requests to its Office of Civil Rights (OCR). OCR will evaluate and provide written decisions regarding requests for nonstandard alternative formats in accordance with the law;
- **ensure that DHCS’s websites are accessible**. The Settlement Agreement would require DHCS to make sure that these things are done and in order to accomplish this may communicate with counties, health plans, programs overseen by the Medi-Cal Behavioral Health (“MCBHD”) Division and by California Children’s Services (“CCS”), and fee-for-service providers as necessary or appropriate.

This case also names the counties of Contra Costa, San Diego, and Alameda as defendants (**County Defendants**). County Defendants agree to:

- **fully cooperate with DHCS’s plan** for the provision of effective communication to blind individuals;
- **provide training to all County employees** who directly interact with Medi-Cal applicants or recipients regarding the provision of effective communication with blind people;
- **ensure each county has at least one employee** who is trained and **available to answer questions** regarding effective communication with blind people; and
- **monitor their own compliance** with DHCS’s plan.

In addition, DHCS will take appropriate steps to ensure that all counties in California are providing effective communication to blind people, including collecting and reviewing information from counties about the numbers of people requesting alternative formats, the types of formats requested, any denials of requests, and complaints.

Monitoring the Agreement

The attorneys who represent the settlement class are called “**class counsel**.” They will monitor whether DHCS does what it promised.

DHCS will regularly **report information** regarding progress to class counsel.

Class members can report any problems to class counsel. Based on reports from DHCS or complaints from blind individuals, class counsel may ask for a meeting with DHCS. DHCS will meet with class counsel in order to resolve the issues.

1 Class counsel may ask for additional meetings to discuss concerns about completing the actions
2 required by the Settlement Agreement. These reports and discussions will continue for as long as
the Settlement Agreement is in place.

3 DHCS's plan is included in the Settlement as Exhibit A. The Settlement will end two years after
4 DHCS finishes implementation of its plan. The parties expect that DHCS will continue to provide
blind individuals with effective communication as required by law after that.

5 **Attorney Fees and Costs**

6 The class members are represented by attorneys from Disability Rights California, Disability
7 Rights Advocates, and the Disability Rights Education and Defense Fund ("Class Counsel").
These attorneys have spent years working on this case and have not yet been paid anything for
8 their time.

9 The Settlement Agreement says that DHCS will pay class counsel \$1,550,000 in attorneys' fees
10 and costs for their work on this lawsuit and to monitor DHCS as it does the things it agreed to in
the Settlement Agreement.

11 **Resolution of Claims**

12 This Settlement Agreement resolves all claims in the lawsuit referenced above. This means that
13 if the court approves the Settlement Agreement, class members will give up the right to sue
DHCS based on the same problems, occurring before the settlement of this case, that are
14 described in the lawsuit.

15 This lawsuit did not seek monetary damages and does not affect any right you may have to sue
16 individually for monetary damages. Class representatives and class members will not receive
money as part of the Settlement Agreement.

17 **COURT HEARING ON SETTLEMENT**

18 The Honorable Maxine M. Chesney of the United States District Court for the Northern District
19 of California granted preliminary approval of the Settlement Agreement. Judge Chesney has
scheduled a hearing for **DATE** at **TIME** to determine if the proposed Settlement Agreement is
20 fair and reasonable and should be finally approved. The hearing will be held in courtroom 7 on
the 19th floor of the federal courthouse in San Francisco, CA, located at 450 Golden Gate Avenue,
21 San Francisco, CA 94102.

22 You do not have to attend the hearing, but you are welcome to do so. You have the right to be
heard at the hearing if you want to say something about the Settlement Agreement.

23 The court may change the date of the hearing without further notice to you or the rest of the class.
24 You can visit the settlement website at **[CLASS COUNSEL TO INSERT WEBSITE]** to confirm
that the date has not been changed. You can also check the court's Public Access to Court
25 Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> to confirm that the date has
26 not changed.

27 **OBJECTIONS TO THE SETTLEMENT**

28 If you are a member of the class or if you are the legal representative of a class member, you have

the right to ask the court not to approve the Settlement Agreement. This is called an objection. To object, you must send the information listed below to the court. Your objection should include the following:

- The name of this case: *Hinkle v. Baass*, Civ. No. 3:18-cv-06430-MMC
- If you are a class member, state your name and the primary county where you receive Medi-Cal services. If you are the legal representative of a class member, state your name, the class member's name, and the primary county where the class member receives Medi-Cal services.
- Explain why you do not like the Settlement Agreement.
- Say whether you want to speak at the hearing.
- Say whether your objection applies to everyone who is blind and participates (or is applying or may apply) in the Medi-Cal program, applies only to a specific group of people, or applies only to you (or the class member on whose behalf you are submitting the objection).

The Court can only approve or reject this Settlement Agreement. You cannot ask the Court to change the settlement.

Your objection must be submitted by **DATE** or if mailed, postmarked by **DATE**. You may, but do not have to, appear at the Final Approval Hearing, either in person or through your own attorney.

Do not mail objections to class counsel or DHCS. Written objections must be sent to the court at the following address:

Clerk of the United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102
Reference: *Hinkle v. Kent*, U.S. District Court for the Northern District of California, Case No. 3:18-cv-06430-MMC

If you are not able to send a written objection, you have the following options:

You can fill out the information online at this website: **DRC TO INSERT ADDRESS**

Or, you can leave a voice mail at this number: **DRC TO INSERT PHONE NUMBER**

**IF YOU DO NOT SUBMIT AN OBJECTION BY THE DEADLINE, YOU WILL LOSE
YOUR RIGHT TO OBJECT TO THE SETTLEMENT AGREEMENT**

**IF YOU AGREE WITH THE SETTLEMENT AGREEMENT, YOU DO NOT NEED TO
APPEAR OR SEND THE COURT ANYTHING**

BINDING EFFECT

If the court approves the Settlement Agreement, the Settlement will prevent all class members from bringing their own lawsuits about the same problems that are being addressed by this Settlement. This means that you cannot later seek different or additional relief regarding the issues and time period addressed in the Settlement.

MORE INFORMATION

This notice summarizes the lawsuit and the proposed Settlement Agreement. It does not describe all the details. For the precise terms and conditions, please see the Settlement Agreement, which is available online at **[CLASS COUNSEL TO INSERT WEBSITE]**. You may also obtain a copy of the Settlement Agreement, and access other documents filed in this case, by:

- Accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>. To use PACER, you must create an account.
- Visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding court holidays. Please do not call the court or the court clerk's office to ask questions about this settlement. If you need reasonable accommodations to participate in the fairness hearing, you may make that request directly to the court.
- Contacting class counsel at the address or telephone number below:

If you have questions about the case or settlement, you may contact either Rebecca Williford at Disability Rights Advocates or Autumn Elliott at Disability Rights California for more information.

Here is their contact information:

Attn: Rebecca S. Williford
Disability Rights Advocates
2001 Center Street, Fourth Floor
Berkeley, CA 94704
Phone: (510) 665-8644

Attn: Autumn M. Elliott
Disability Rights California
350 S. Bixel Street, Ste 290
Los Angeles CA 90017
Phone: (213) 213-8000

To obtain copies of this Notice in another language or in alternative accessible formats, please contact DHCS at:

[DHCS TO INSERT INFORMATION]

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