

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

-----X

SHALONDA SPRUILL, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

GARY ALEXANDER, in his official capacity
as Director of the Rhode Island Department of Human Services
Defendant.

-----X

No. 09 CV _____

**COMPLAINT -
CLASS ACTION**

CLASS ACTION COMPLAINT

PRELIMINARY STATEMENT

1. This action arises from defendant’s ongoing and persistent failure to timely process applications for Rhode Island’s poorest families who seek Supplemental Nutrition Assistance, also known as food stamps, as required by explicit federal Food Stamp statutes and implementing regulations.¹ Defendant’s failure to process applications in a timely manner means that thousands of households are denied desperately needed assistance to help them feed their families and suffer hunger as a result.

2. Accordingly, plaintiff brings this action on behalf of herself and a class of needy Rhode Island families and individuals challenging defendant’s policies and practices of failing to process food stamp applications, and provide food stamps on a timely basis to eligible applicants

¹ Effective October 1, 2008, the federal Food Stamp Program was renamed the Supplemental Nutrition Assistance Program (SNAP) and the federal Food Stamp Act was renamed the Food and Nutrition Act of 2008. Sections 4001 and 4002 of P.L. 110-246. In Rhode Island, Supplemental Nutrition Assistance Program benefits are commonly known as food stamps. In this complaint, plaintiff uses the term “food stamps”.

in violation of federal statutes and regulations.

3. Plaintiff also brings this action on behalf of herself and a subclass of needy families and individuals challenging defendants' policies and practices of failing to provide food stamps on an expedited basis in violation of federal law.

4. Plaintiff seeks preliminary and permanent injunctions enjoining defendants from (1) failing to process applications for food stamps on a timely basis; (2) failing to provide food stamps to eligible applicants in a timely manner; (3) failing to provide expedited food stamps to eligible households on a timely basis; and (4) failing to provide timely and adequate written determinations of eligibility for food stamps.

JURISDICTION AND VENUE

5. This action is brought under 42 U.S.C. § 1983 to redress the deprivation of federal statutory and constitutional rights.

6. Jurisdiction over this action is conferred upon this court by (a) 28 U.S.C. § 1331, which provides for jurisdiction in the United States district courts over civil actions arising under the Constitution, laws, or treaties of the United States; and (b) 28 U.S.C. § 1343(a)(3), which provides for jurisdiction in the United States district courts over civil actions to redress deprivation of rights secured by the Constitution of the United States.

7. Venue properly lies with this district pursuant to 28 U.S.C. § 1391(b).

CLASS ALLEGATIONS

8. Plaintiff brings this action under Federal Rule of Civil Procedure Rule 23(b)(2) on behalf of a class defined as follows:

All residents of Rhode Island, who, since July 6, 2006, have applied, are applying, or will apply for food stamps in Rhode Island.

9. This class is so numerous that joinder of all members is impracticable. Upon

information and belief, thousands of people in Rhode Island apply for food stamps every month. In addition, the class includes individuals whose identity is not available and, as to future class members, is not readily available, making joinder of all members a practical impossibility. According to data from the Food and Nutrition Service at the United States Department of Agriculture, in March 2009, the most recent month for which data is available, 99,122 individuals in Rhode Island participated in the food stamp program. (www.fns.usda.gov/pd/29SNAPcuupp.htm.) In March 2009 alone, 3,700 individuals enrolled in the program. (http://www.projo.com/news/content/SNAP_Numbers_04-20-09_C1E3BBG_v8.3a1869f.html)

10. There are numerous questions of fact and law common to the class concerning whether defendant fails to process food stamp applications within the time frames required by law.

11. The individual plaintiff's claims are typical of the claims of the class in that the named plaintiff has applied for food stamps and has experienced unlawful delays in processing.

12. Plaintiff also brings this action under Federal Rule of Civil Procedure Rule 23(b)(2) on behalf of a subclass defined as follows:

All Rhode Island residents who, since July 6, 2006, have applied, are applying, or will apply for food stamps in Rhode Island and who are eligible for expedited processing.

13. The subclass is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of people in Rhode Island apply for food stamps every month, substantial numbers of whom qualify for expedited food stamps. In addition, the subclass includes individuals whose identity is not available and, as to future subclass members, is not readily available, making joinder of all members a practical impossibility.

14. There are numerous questions of fact and law common to the class concerning whether defendant fails to provide food stamps on an expedited basis to those eligible as required by law.

15. The individual plaintiff's claims are typical of the claims of the class in that the named plaintiff has applied for food stamps and is eligible for expedited processing, but defendant has not provided her with expedited food stamps.

16. Declaratory and injunctive relief is appropriate with respect to the class as a whole and the subclass because defendant has acted on grounds applicable to the class and the subclass.

17. The named plaintiff and the proposed class and subclass are represented by the National Center for Law and Economic Justice, and Roney & Labinger LLP, whose attorneys are experienced in class action litigation and will adequately represent the class and subclass. The National Center for Law and Economic Justice has litigated numerous public benefits class action cases in federal district courts. Roney & Labinger LLP has litigated numerous cases in this District.

18. A class action is superior to other available methods for a fair and efficient adjudication of this matter in that the prosecution of separate actions by individual class members would unduly burden the Court and create the possibility of conflicting decisions.

PARTIES

Plaintiff

19. Plaintiff SHALONDA SPRUILL resides in Providence, Rhode Island.

Defendant

20. Defendant GARY ALEXANDER is the Director of the Rhode Island Department of Human Services and is responsible for, *inter alia*, the overall operation and administration in Rhode Island of the Food Stamp Program described in this complaint and complying with federal law relating to the Food Stamp Program. Defendant Alexander is sued in his official capacity.

STATUTORY AND REGULATORY SCHEME

21. The following sets forth the federal statutes and regulations which, as to applications for food stamps require defendant to, *inter alia*, timely accept applications, process applications and

to make eligibility determinations as to those applications.

22. Congress established the federally funded, state-administered Food Stamp Program in 1964 in order to "safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households." 7 U.S.C. § 2011; 7 C.F.R. § 271.1.

23. Effective October 1, 2008, the federal Food Stamp Program was renamed the Supplemental Nutrition Assistance Program (SNAP) and the federal Food Stamp Act was renamed the Food and Nutrition Act of 2008. Sections 4001 and 4002 of P. L. 110-246.

24. In Rhode Island, Supplemental Nutrition Assistance Program benefits are commonly known as food stamps.

25. States participating in the Food Stamp Program share in the cost of administration and designate a single state agency responsible for administering the program and complying with the federal food stamp requirements. 7 U.S.C. § 2020 (a), (d) and (e).

26. Rhode Island participates in the Food Stamp Program. The Department of Human Services is the single state agency responsible for administering the Food Stamp Program in Rhode Island. R.I. Gen. Laws § 40-6-8.

27. To be eligible for food stamps, a household's net income must be below the federal poverty line,² and its available resources may not exceed \$2,000 (or, where a household includes a member 60 years of age or older, \$3,000). 7 U.S.C. §§ 2014(c), (g).

28. Under the federal Food Stamp Act, households must be permitted to file an application on the first day that they contact the local social services office. 7 U.S.C. § 2020 (e)(2)(B)(iii); 7 C.F.R. §§ 273.2(c)(1), (c)(2)(i).

29. The State agency is required to "encourage" households to file applications the same

² The 2009 federal poverty line is \$18,310 for a family of three. 74 Fed. Reg. 4199-4201 (Jan. 23, 2009).

day they contact the office. 7 C.F.R. § 273.2(c)(2)(i).

30. The application filed on day one by an individual or household seeking to apply for food stamps need only include the applicant's name, address, and signature. 7 C.F.R. § 273.2(c)(1).

31. Information regarding the Food Stamp Program's requirements and procedures must be made generally available and the administering agency must explain to applicants for food stamps their rights and responsibilities concerning eligibility for benefits. 7 C.F.R. §§ 273.2(c)(4), (e)(1), 272.5(b)(3).

32. If an individual or household seeks to apply jointly for cash assistance and food stamps, any delays in the processing of the application for cash assistance may not result in any delay in the processing of the food stamp application. 7 U.S.C. §§ 2014(b), 2020(e)(3), (i)(2); 7 C.F.R. §§ 273.2(g)(1), (j)(1)(iii).

33. If the cash assistance application is denied or withdrawn, the applicant can not be required to submit a new application for food stamps. 7 U.S.C. §§ 2014(b), 2020(e)(3), (i)(2); 7 C.F.R. § 273.2(j)(1)(v).

34. The State agency must provide ongoing food stamps to eligible applicants no later than 30 days after date of application. 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a), (g)(1).

35. The State agency must affirmatively identify households eligible for expedited service at the time the household requests assistance. For example, a receptionist, volunteer, or other employee shall be responsible for screening applications as they are filed or as individuals come in to apply. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i)(2).

36. Expedited issuance of food stamps is generally available to households with very low income and liquid resources, households whose housing costs exceed the sum of their income and liquid resources, and certain migrant and seasonal worker households. 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2(i)(1).

37. Under federal law, expedited food stamps must be provided to eligible households not later than the seventh day following the date an application is filed. 7 U.S.C. § 2020(e)(9)(A); 7 C.F.R. § 273.2(i)(3)(i).

38. The federal Food Stamp Act requires that state agencies certify households for a specified period of time. 7 U.S.C. § 2020(e)(4); 7 C.F.R. § 273.10(f).

39. The state agency must establish procedures to notify households of expiration dates, provide applications, schedule interviews and “recertify[] eligible households prior to the expiration of the certification periods.” 7 C.F.R. § 273.14(a).

40. 7 U.S.C. § 2020 (e)(4) requires the state agency to notify the household prior to the expiration of food stamp eligibility and ensure that an eligible household that files an application by the specified date receives its allotment no later than one month after the receipt of the last allotment issued pursuant to the prior certification. This requirement is implemented by 7 C.F.R. § 273.14(d)(1), which deals with timely processing in recertification, and provides, inter alia, that “[e]ligible households shall be provided an opportunity to receive benefits no later than 30 calendar days after the date the household received its last allotment.”

FACTUAL ALLEGATIONS

A. Facts Common to the Class

41. On information and belief, Rhode Island is failing to process hundreds of applications in a timely manner. Recent data from the United States Department of Agriculture Food and Nutrition Service shows that for the period from April 2008 to September 2008, Rhode Island’s timely processing rate was only 82.64 percent, Ex. 1 hereto. This is a decline from a prior period of January 2008 to June 2008, when the timely processing rate was 85.86 percent, Ex. 2 hereto.

42. This violation of law has been ongoing, for example, in FY 2007, according to data reported by the United States Department Food and Nutrition Service, which oversees state

compliance with food stamp requirements, Rhode Island failed to timely process more than 13 percent of all applications. (See FY 2007 Application Processing Timeliness at http://www.fns.usda.gov/fsp/qc/2007-processing_rate.htm).

B. FACTS OF INDIVIDUAL NAMED PLAINTIFF

43. Plaintiff SHALONDA SPRUILL resides in Warwick, Rhode Island.

44. Ms. Spruill filed an application for food stamps for herself and her 8 year old daughter in mid-May at the Providence DHS office.

45. To date, she has not received food stamps.

46. She returned to DHS on May 28, 2009 to find out the date of her application interview because she had not received anything about an interview in the mail.

47. When she returned to DHS on May 28, 2009 she was told that there was no record of an application on file for her. She was given another application and told to complete it and submit it to DHS, which she did.

48. Although she was told on May 28 that she would receive a letter with an interview date in 7 days, she did not receive a letter from DHS until June 15 or 16, 2009. The letter, dated June 12, 2009, stated that her application interview was scheduled for July 15, 2009, two months after she applied for benefits, and a month and a half after she submitted the second application.

49. Ms. Spruill called supervisors at the Providence DHS office to see if her application could be scheduled for an earlier date. She also sought help from Rhode Island Legal Services, which called DHS on her behalf to attempt to get an earlier interview. To date, she has not been given an earlier interview date.

50. Ms. Spruill does not have money to buy groceries.

51. Ms. Spruill lost her job in January 2009 and has not been able to find another job. She has applied for Unemployment Insurance but has not yet received benefits. She has no income

or savings. She was living off of her tax return but that money is now gone. Her family gives her food so she can pack lunch for her daughter on school days, but she is concerned about her daughter having enough food beyond those lunches. Ms. Spruill eats less than she used to and often does not have three meals a day.

52. Upon information and belief, Ms. Spruill was eligible for expedited food stamps.

53. Upon information and belief, defendant either did not screen her application for expedited processing or failed to provide expedited food stamps.

54. More than 7 days have passed since Ms. Spruill filed her application and defendant has not processed her application on an expedited basis. More than 30 days have passed since Ms. Spruill filed her application, and defendant has not acted on her application.

55. Ms. Spruill and her family do not have enough food and are suffering great harm as a result of defendant's failure to act on her food stamp application.

STATEMENT OF CLAIMS

FIRST CLAIM (Food Stamps)

56. Defendant's policies and practices of failing to process food stamps applications within thirty days of the date of application violate 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a)(2), (g)(1) and 42 U.S.C. § 1983.

SECOND CLAIM (Food Stamps)

57. Defendant's policies and practices of failing to provide expedited food stamps to eligible households within seven days from the date of application violate 7 U.S.C. § 2020(e)(9)(A) and implementing regulations, 7 C.F.R. §§ 273.2 (a)(2), (i)(2), (i)(3)(i) and 42 U.S.C. § 1983.

THIRD CLAIM (Due Process)

58. Defendant's policies and practices of failing to provide families and individuals with a notice of eligibility determination, including notice of the right to a fair hearing, violate the Due

Process Clause of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

REQUEST FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment in favor of plaintiff and the class and sub-class represented by her as follows:

- a. Declare that defendant's policies and practices of:
 - i) failing to process food stamp applications within thirty days of the date of application violate 7 U.S.C. § 2020(e)(3) and 7 C.F.R. §§ 273.2(a)(2), (g)(1) and 42 U.S.C. § 1983;
 - ii) failing to provide expedited food stamps to eligible households within seven days of the date of application violate 7 U.S.C. § 2020(e)(9)(A) and 7 C.F.R. §§ 273.2(a)(2), (i)(2), (i)(3)(i) and 42 U.S.C. § 1983; and
 - iii) failing to provide written notification of eligibility determinations required by law violates the Due Process Clause of the United States Constitution and 42 U.S.C. § 1983;
- b. Preliminarily and permanently enjoin defendant to:
 - i) process all applications for food stamps within the time frames required by federal law; and
 - ii) provide expedited food stamps to eligible individuals on a timely basis; and
 - (iii) give timely and adequate written notices of determinations of eligibility for any and all benefits applied for and eligibility for expedited food stamps;
- c. award litigation costs and reasonable attorneys' fees, as provided for by 42 U.S.C. §1988;
- d. award costs and disbursements; and

e. order such other and further relief as the Court may deem just and proper.

July 6, 2009

By her attorneys,

NATIONAL CENTER FOR LAW
AND ECONOMIC JUSTICE

Marc Cohan³

Cary LaCheen

Petra T. Tasheff

275 7th Avenue

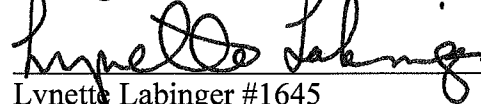
Suite 1506

New York, NY 10001

(212) 633-6967

(212) 633-6371 (fax)

cohan@ncej.org



Lynette Labinger #1645

RONEY & LABINGER LLP

344 Wickenden St.

Providence, RI 02903

(401) 421-9794

(401) 421-0132 (fax)

office@ronney-labinger.com

Cooperating counsel, RI Affiliate American

Civil Liberties Union

Attorneys for Plaintiffs

³ Attorneys from the National Center for Law and Economic Justice appearing provisionally subject to approval of motion for leave to appear *pro hac vice* filed herewith.

| | | PAST SIX MONTH AVERAGE* | | | | | | |
|----------------|--|--------------------------------------|-------------|----------|-----------------------|-------------|------------------|---|
| | | (April 2008 - September 2008) | | | | | | |
| | | | | | | 95% | | |
| State | | State Rate | Sample Size | Sqrt Var | Confidence (Rate + -) | Upper Bound | Upper Bound < 90 | |
| CONNECTICUT | | 81.50 | 200 | 2.7 | 5.38 | 86.88 | | 1 |
| MAINE | | 96.79 | 187 | 1.3 | 2.53 | 99.32 | | |
| MASSACHUSETTS | | 98.13 | 267 | 0.8 | 1.63 | 99.75 | | |
| NEW HAMPSHIRE | | 90.37 | 135 | 2.5 | 4.98 | 95.35 | | |
| NEW YORK | | 85.03 | 147 | 2.9 | 5.77 | 90.80 | | |
| RHODE ISLAND | | 82.64 | 121 | 3.4 | 6.75 | 89.39 | | 1 |
| VERMONT | | 88.57 | 105 | 3.1 | 6.09 | 94.66 | | |
| DELAWARE | | 82.43 | 148 | 3.1 | 6.13 | 88.56 | | 1 |
| DIST. OF COL. | | 95.08 | 244 | 1.4 | 2.71 | 97.80 | | |
| MARYLAND | | 87.62 | 210 | 2.3 | 4.45 | 92.07 | | |
| NEW JERSEY | | 83.52 | 176 | 2.8 | 5.48 | 89.00 | | 1 |
| PENNSYLVANIA | | 87.00 | 200 | 2.4 | 4.66 | 91.66 | | |
| VIRGINIA | | 86.05 | 215 | 2.4 | 4.63 | 90.68 | | |
| VIRGIN ISLANDS | | 90.63 | 32 | 5.2 | 10.10 | 100.72 | | |
| WEST VIRGINIA | | 96.97 | 198 | 1.2 | 2.39 | 99.36 | | |
| ALABAMA | | 83.00 | 247 | 2.4 | 4.69 | 87.68 | | 1 |
| FLORIDA | | 78.26 | 322 | 2.3 | 4.51 | 82.77 | | 1 |
| GEORGIA | | 81.50 | 254 | 2.4 | 4.78 | 86.27 | | 1 |
| KENTUCKY | | 97.23 | 289 | 1.0 | 1.89 | 99.12 | | |
| MISSISSIPPI | | 86.18 | 217 | 2.3 | 4.59 | 90.77 | | |
| NORTH CAROLINA | | 94.50 | 291 | 1.3 | 2.62 | 97.12 | | |
| SOUTH CAROLINA | | 91.25 | 240 | 1.8 | 3.57 | 94.82 | | |
| TENNESSEE | | 80.56 | 252 | 2.5 | 4.89 | 85.44 | | 1 |
| ILLINOIS | | 95.17 | 207 | 1.5 | 2.92 | 98.09 | | |
| INDIANA | | 84.98 | 213 | 2.4 | 4.80 | 89.77 | | 1 |
| MICHIGAN | | 77.36 | 212 | 2.9 | 5.63 | 82.99 | | 1 |
| MINNESOTA | | 89.70 | 165 | 2.4 | 4.64 | 94.34 | | |
| OHIO | | 86.07 | 639 | 1.4 | 2.68 | 88.76 | | 1 |
| WISCONSIN | | 82.18 | 303 | 2.2 | 4.31 | 86.49 | | 1 |
| ARKANSAS | | 85.62 | 299 | 2.0 | 3.98 | 89.60 | | 1 |
| LOUISIANA | | 95.02 | 261 | 1.3 | 2.64 | 97.66 | | |
| NEW MEXICO | | 89.19 | 296 | 1.8 | 3.54 | 92.73 | | |
| OKLAHOMA | | 89.02 | 246 | 2.0 | 3.91 | 92.93 | | |
| TEXAS | | 80.06 | 311 | 2.3 | 4.44 | 84.50 | | 1 |
| COLORADO | | 75.85 | 265 | 2.6 | 5.15 | 81.00 | | 1 |
| IOWA | | 92.27 | 233 | 1.7 | 3.43 | 95.70 | | |
| KANSAS | | 84.93 | 219 | 2.4 | 4.74 | 89.67 | | 1 |
| MISSOURI | | 97.75 | 267 | 0.9 | 1.78 | 99.53 | | |
| MONTANA | | 98.47 | 131 | 1.1 | 2.10 | 100.57 | | |
| NEBRASKA | | 90.45 | 178 | 2.2 | 4.32 | 94.77 | | |

| | | | | | | | | |
|--|---|--|--------------|------------|------------|--------------|--------------|-----------|
| | NORTH DAKOTA | | 92.72 | 151 | 2.1 | 4.15 | 96.86 | |
| | SOUTH DAKOTA | | 92.63 | 95 | 2.7 | 5.25 | 97.89 | |
| | UTAH | | 91.12 | 214 | 1.9 | 3.81 | 94.93 | |
| | WYOMING | | 85.00 | 100 | 3.6 | 7.00 | 92.00 | |
| | | | | | | | | |
| | ALASKA | | 73.13 | 134 | 3.8 | 7.51 | 80.64 | 1 |
| | ARIZONA | | 87.60 | 363 | 1.7 | 3.39 | 90.99 | |
| | CALIFORNIA | | 78.19 | 321 | 2.3 | 4.52 | 82.71 | 1 |
| | GUAM | | 73.33 | 45 | 6.6 | 12.92 | 86.25 | 1 |
| | HAWAII | | 88.61 | 158 | 2.5 | 4.95 | 93.56 | |
| | IDAHO | | 93.33 | 165 | 1.9 | 3.81 | 97.14 | |
| | NEVADA | | 86.84 | 304 | 1.9 | 3.80 | 90.64 | |
| | OREGON | | 91.70 | 277 | 1.7 | 3.25 | 94.95 | |
| | WASHINGTON | | 90.60 | 234 | 1.9 | 3.74 | 94.34 | |
| | | | | | | | | |
| | U.S.# | | 86.14 | | | | | 19 |
| | | | | | | | | |
| | * Un-weighted averages across last six months (not weighted for changing FY's or stratification). Data as of February 4, 2009. | | | | | | | |
| | | | | | | | | |
| | # U.S. rate is weighted by FY 2007 caseload | | | | | | | |

| | | PAST SIX MONTH AVERAGE* | | | | |
|----------------|--|-----------------------------------|---------------|-------------------|--------------|--------------------|
| | | (January 2008 - June 2008) | | | | |
| | | | | 95% | | |
| | | State | Sample | Confidence | Upper | Upper Bound |
| State | | Rate | Size | (Rate + -) | Bound | < 90 |
| CONNECTICUT | | 84.62 | 156 | 5.66 | 90.28 | |
| MAINE | | 94.70 | 132 | 3.82 | 98.52 | |
| MASSACHUSETTS | | 97.91 | 191 | 2.03 | 99.94 | |
| NEW HAMPSHIRE | | 94.17 | 120 | 4.19 | 98.36 | |
| NEW YORK | | 85.34 | 116 | 6.44 | 91.78 | |
| RHODE ISLAND | | 85.86 | 99 | 6.86 | 92.72 | |
| VERMONT | | 88.10 | 84 | 6.93 | 95.02 | |
| DELAWARE | | 79.49 | 117 | 7.32 | 86.80 | 1 |
| DIST. OF COL. | | 97.34 | 188 | 2.30 | 99.64 | |
| MARYLAND | | 86.50 | 163 | 5.25 | 91.75 | |
| NEW JERSEY | | 82.35 | 153 | 6.04 | 88.39 | 1 |
| PENNSYLVANIA | | 84.80 | 171 | 5.38 | 90.18 | |
| VIRGINIA | | 87.57 | 169 | 4.97 | 92.55 | |
| VIRGIN ISLANDS | | 92.59 | 27 | 9.88 | 102.47 | |
| WEST VIRGINIA | | 96.41 | 167 | 2.82 | 99.23 | |
| ALABAMA | | 82.38 | 193 | 5.37 | 87.76 | 1 |
| FLORIDA | | 71.72 | 244 | 5.65 | 77.37 | 1 |
| GEORGIA | | 84.38 | 192 | 5.14 | 89.51 | 1 |
| KENTUCKY | | 95.94 | 197 | 2.76 | 98.70 | |
| MISSISSIPPI | | 84.38 | 160 | 5.63 | 90.00 | |
| NORTH CAROLINA | | 94.01 | 217 | 3.16 | 97.17 | |
| SOUTH CAROLINA | | 91.15 | 192 | 4.02 | 95.16 | |
| TENNESSEE | | 81.11 | 180 | 5.72 | 86.83 | 1 |
| ILLINOIS | | 97.13 | 174 | 2.48 | 99.61 | |
| INDIANA | | 86.00 | 200 | 4.81 | 90.81 | |
| MICHIGAN | | 83.05 | 177 | 5.53 | 88.58 | 1 |
| MINNESOTA | | 87.59 | 145 | 5.37 | 92.95 | |
| OHIO | | 84.69 | 588 | 2.91 | 87.60 | 1 |
| WISCONSIN | | 81.36 | 220 | 5.15 | 86.51 | 1 |
| ARKANSAS | | 88.31 | 248 | 4.00 | 92.31 | |
| LOUISIANA | | 97.89 | 142 | 2.37 | 100.25 | |
| NEW MEXICO | | 88.98 | 236 | 3.99 | 92.98 | |
| OKLAHOMA | | 92.61 | 176 | 3.86 | 96.48 | |
| TEXAS | | 75.89 | 224 | 5.60 | 81.49 | 1 |
| COLORADO | | 77.49 | 191 | 5.92 | 83.41 | 1 |
| IOWA | | 92.11 | 190 | 3.83 | 95.94 | |
| KANSAS | | 85.96 | 178 | 5.10 | 91.06 | |
| MISSOURI | | 96.17 | 209 | 2.60 | 98.77 | |

| | | | | | | |
|---|--|--------|-----|-------|--------|----|
| MONTANA | | 100.00 | 107 | 0.00 | 100.00 | |
| NEBRASKA | | 88.97 | 145 | 5.10 | 94.07 | |
| NORTH DAKOTA | | 92.38 | 105 | 5.07 | 97.46 | |
| SOUTH DAKOTA | | 97.65 | 85 | 3.22 | 100.87 | |
| UTAH | | 88.17 | 169 | 4.87 | 93.04 | |
| WYOMING | | 81.93 | 83 | 8.28 | 90.21 | |
| | | | | | | |
| ALASKA | | 75.89 | 112 | 7.92 | 83.81 | 1 |
| ARIZONA | | 88.85 | 278 | 3.70 | 92.55 | |
| CALIFORNIA | | 78.31 | 272 | 4.90 | 83.21 | 1 |
| GUAM | | 65.91 | 44 | 14.01 | 79.92 | 1 |
| HAWAII | | 88.99 | 109 | 5.88 | 94.87 | |
| IDAHO | | 90.54 | 148 | 4.71 | 95.26 | |
| NEVADA | | 83.74 | 246 | 4.61 | 88.35 | 1 |
| OREGON | | 89.47 | 228 | 3.98 | 93.46 | |
| WASHINGTON | | 90.61 | 181 | 4.25 | 94.86 | |
| | | | | | | |
| U.S.# | | 85.84 | | | | 15 |
| | | | | | | |
| * Un-weighted averages across last six months (not weighted for changing FY's or stratification). Data as of November 3, 2008. | | | | | | |
| | | | | | | |
| # U.S. rate is weighted by FY 2007 caseload | | | | | | |