

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ROBYN KRAVITZ, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
COMMERCE, *et al.*,

Defendants.

No. 8:18-cv-01041-GJH

**DECLARATION OF CAROL FEDERIGHI IN SUPPORT OF DEFENDANTS'
REPLY IN FURTHER SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

I, Carol Federighi, declare as follows:

1. I am an attorney at the United States Department of Justice, counsel for Defendants in the above-captioned litigation. I submit this declaration in support of Defendants' reply in further support of their motion for summary judgment.
2. Attached as **Exhibit A** is a true and accurate copy of selections from the October 4, 2018, Deposition of Andrew D. Reamer, Ph.D.

I declare under penalty of perjury that the foregoing is true and correct.

December 4, 2018
Washington, D.C.

/s/ Carol Federighi
Carol Federighi

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK
3
4 -----
5 IMMIGRATION COALITION, et al., :
6 Plaintiffs, :
7 v. :
8 UNITED STATES DEPARTMENT OF :
9 COMMERCE, et al., :
10 Defendants. :
11 -----

13 Deposition of ANDREW D. REAMER, Ph.D., a
14 witness herein, at the offices of the United States
15 Department of Justice, 1100 L Street, N.W., 12th
16 Floor, Washington, D.C., commencing at 9:13 a.m. on
17 Thursday, October 4, 2018 and the proceedings
18 being taken down by stenotype and transcribed by
19 Catherine B. Crump, a Notary Public in and for the
20 District of Columbia.

21
22
23
24
25

1 Q. Is it correct to state that the domestic
2 assistance programs other than those about 320 you
3 identify on page 4 do not use census-derived data to
4 distribute program?

5 A. I would say the large, large majority of
6 them do not. I'm always discovering new ones, but I
7 feel like I have -- 320 is a pretty complete count.

8 Q. But you would agree that a significant
9 majority of 2,249 total domestic assistance programs
10 do not use census-derived data to distribute funds.
11 Correct?

12 MS. MORGAN: Objection as to form.

13 THE WITNESS: Well, I would say that 2249
14 minus 320, that number is the number of ones that I
15 am not calling census derived at the moment.

16 BY MR. TOMLINSON:

17 Q. So I want to talk just a little bit
18 about some of these specific programs and I want to
19 start with Medicaid.

20 A. Okay.

21 Q. Now, Medicaid provides funding to State
22 Governments. Correct?

23 A. Yes.

24 Q. The Federal Government does not provide
25 money directly to individuals through Medicaid.

1 Correct?

2 A. Correct. That's my understanding.

3 Q. And the Federal Government does not
4 provide money directly to any nonprofit organizations
5 through Medicaid. Correct?

6 A. That's my understanding.

7 Q. And individual eligibility for Medicaid
8 is determined by the specific State. Correct?

9 A. That's my understanding.

10 Q. Now, the amount of Medicaid funding
11 received by each State is determined by a formula
12 called the Federal Medical Assistance Percentage, but
13 we can use FMAP for short. Correct?

14 A. Yes.

15 Q. And your opinion is that some of the
16 differential undercount scenarios provided to you by
17 Professor Warshaw would change the FMAP calculation
18 for certain States and negatively impact the amount
19 of Medicaid funding those States received. Correct?

20 A. Correct. Medicaid reimbursement, which
21 is funding, but it's a reimbursement.

22 Q. Now, on page 36 of this report, there is
23 a table. Do you see that?

24 A. Um-hum.

25 Q. And does this table identify the States

1 MS. MORGAN: Objection to form.

2 BY MR. TOMLINSON:

3 Q. Or apply to the undercount scenarios
4 provided by Warshaw and Fraga?

5 A. Yes. I think just for clarity, I'll
6 repeat it, that this was an analysis based on if the
7 2020 scenarios identified by Professor Fraga was
8 experienced in 2010, how that would change the FMAP
9 in 2015 for the 50 States plus D.C.

10 Maryland, because it was at 50 in 2015, would
11 not have been changed, but that's no prediction that
12 Maryland would not be affected at some point in the
13 2020s. It all depends on its relative per capita --
14 its per capita income relative to the nation, which
15 is something that is not in its control.

16 Q. I'm going to ask you to look back at the
17 New York report, Exhibit 1. I want to talk about
18 CHIP.

19 A. Okay.

20 Q. CHIP is a federal funding program that
21 provides funding to State Governments. Correct?

22 A. Correct.

23 Q. And CHIP does not provide federal funds
24 directly to individuals?

25 A. That's my understanding.

1 Q. And CHIP does not provide federal
2 funding directly to nonprofit organizations?

3 A. Give me a moment.

4 [Witness peruses exhibit.]

5 THE WITNESS: I'm not an expert in what
6 States do with their CHIP money. So I cannot say
7 that States do not somehow reprogram that money and
8 it find its way elsewhere, but the States are the
9 original recipient of the money.

10 BY MR. TOMLINSON:

11 Q. Right. So the Federal Government
12 provides the money to the State Government. Correct?

13 A. Correct.

14 Q. And I think you just said this, but the
15 individual eligibility for CHIP is determined by the
16 State. Correct?

17 A. I believe so and I don't know the
18 parameters by which States have latitude to determine
19 whether it's eligible. Every program is so unique.
20 Sometimes Congress or the Department is very
21 specific, this is what eligibility means. In other
22 instances, States have a lot of latitude.

23 I'm not sure where CHIP fits in all of that.

24 Q. Okay. Now, the amount of CHIP funding
25 received by each State is based in part upon the FMAP

1 Professor Fraga?

2 A. Yes.

3 Q. Okay. I'd like to turn back to Exhibit

4 1 --

5 A. This is so much fun.

6 Q. -- and talk about the WIC program.

7 A. Okay. Page 24? I'm sorry. Page 39.

8 Q. Page 39, correct.

9 So WIC is a federal program that provides
10 funding to State Governments. Correct?

11 A. That is my understanding. Yes, and,
12 again, it's a pass-through. So the State then turns
13 around and gives money to the local agency.

14 Q. Right, but the Federal Government only
15 gives money to the State Government?

16 A. My understanding.

17 Q. So the Federal Government does not
18 provide money directly to individuals. Correct?

19 A. That's my understanding.

20 Q. And the Federal Government does not
21 provide money directly to any nonprofit organizations
22 under the WIC program. Correct?

23 A. I believe that's correct, but the States
24 do.

25 Q. States have the ability to limit WIC

1 beneficiary eligibility to United States citizens.

2 Correct?

3 A. That's my understanding.

4 Q. You --

5 MS. FERRARI: Objection to the extent it
6 calls for a legal conclusion.

7 BY MR. TOMLINSON:

8 Q. I would like to direct your attention to
9 page 24 of the New York report. Near the bottom, you
10 state State agencies have the option to limit WIC
11 eligibility to U.S. citizens. Correct?

12 A. Yes. That sentence is there.

13 Q. WIC beneficiary eligibility is based in
14 part on whether the person meets a low income
15 standard. Correct?

16 A. That's my understanding.

17 Q. And that low income standard is a
18 national standard correct?

19 A. I don't know. I do know that the money
20 given from the Federal Government to the States is
21 based on the number of kids up to Age 5 that are --
22 the State share of number of kids up to Age 5 that
23 are at or below 185 percent of poverty, but in terms
24 of who is eligible to receive the money once received
25 -- receive the services once received by the State, I

1 that will be eligible to receive services.

2 Q. And by each eligible jurisdiction, you
3 mean States and territories. Correct?

4 A. That's my understanding.

5 Q. Social services block grant funds --
6 strike that.

7 Each State's allocation of social services
8 block grant funds is determined in part based on the
9 population estimates. Correct?

10 A. I believe it's based in full on
11 population estimates.

12 Q. Okay.

13 A. On the State's share of national
14 population as determined by the population estimates
15 of the Census Bureau.

16 Q. So as far you know, there is no other
17 data inputs other than population estimates?

18 A. That's my understanding.

19 Q. I would like to turn your attention to
20 the table on page 40 of the New York report, which is
21 Exhibit 1.

22 A. Yes.

23 Q. This table on page 40 shows the States
24 that would lose funding under at least some of the
25 undercount scenarios provided by Professor Warshaw.

FREE STATE REPORTING, INC.

1378 Cape St. Claire Road
Annapolis, Maryland 21409
Attention: Debbie O'Konek

ERRATA SHEET

In Re: Immigration Coalition, et al. v. U.S. Department of Commerce, et al.
Deposition of Andrew Reamer, Ph.D.
Taken on October 4, 2018

At the time, the above-named deponent desired to make the following changes:

<u>PAGE</u>	<u>LINE</u>	<u>AS TRANSCRIBED</u>	<u>CHANGE TO</u>	<u>REASON</u>
27	4	"sudden that somebody"	"sudden somebody"	extra word added
27	5	"would affect"	"would not affect"	word omitted
27	6	"populations, but"	"populations differently, but"	word omitted
45	24	"zero change"	"zero chance"	typo
47	4	"citizen"	"citizenship"	typo
48	9	"2016 and 2019"	"2016 through 2019"	wrong word
48	10	"changed again"	"will change again"	typo / omission
51	5	"2020"	"2010"	typo
67	12	"not chosen."	."	extra words added
67	22	1 "Title 1"	"Title I"	incorrect numeral
69	8	"larger."	"larger number."	word omitted
71	4	"level might"	"level, it might"	word omitted
77	7	"ingoing"	"incoming"	typo
89	15	"state's share"	"state's population share"	word omitted
91	6	"Capital"	"Capita"	typo
→ 74	25	"I don't know I"	"I don't know, I"	typo

<u>PAGE</u>	<u>LINE</u>	<u>AS TRANSCRIBED</u>	<u>CHANGE TO</u>	<u>REASON</u>
94	7	"was"	"were"	wrong word
95	19	"whether it's"	"who is"	wrong words
96	11	"exactly."	"exactly why."	omitted word
98	24	"dependant"	"dependent"	typo
102	16	"dependant"	"dependent"	typo
120 120	13-14	"it owns on"	"its own or"	typos
122	21-23	"where there are Hispanics are. were included were considered to be part of the part of possible undercount."	"where Hispanics are considered to part of a possible undercount."	typos
126	12	"SSPG"	"SSBG"	typo
127	13-14	"but they don't lose money"	" "	added repeated words not spoken
127	20	"Title 1"	"Title I"	incorrect numeral
128	3-4	"Title 1"	"Title I"	incorrect numeral
129	3	"Title 1"	"Title I"	incorrect numeral
130	13	"Title 1"	"Title I"	incorrect numeral
130	24	"believe"	"belief"	typo
131	17, 23	"Title 1"	"Title I"	incorrect numeral

DATED: _____ SIGNED: _____

FREE STATE REPORTING, INC.
1378 Cape St. Claire Road
Annapolis, Maryland 21409

ACKNOWLEDGMENT OF DEPONENT

I, Andrew Reamer do hereby acknowledge that I have read and examined pages 1 through 136 inclusive, of the transcript of my deposition, and that:
(check appropriate line.)

_____ The same is a true, correct and complete transcription of the answers given by me to the questions therein recorded.

Except for the changes noted on the attached errata sheet, the same is a true, correct and complete transcription of my deposition.

Dated: 10/22/18 Signed: Andrew Reamer

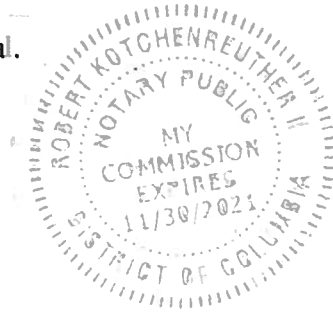
NOTARY PUBLIC

State of District of Columbia
County of N/A

On this 22nd day of October, 2018, before me, the undersigned personally appeared Andrew Reamer, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness hereof I hereunto set my hand and official seal.

Robert Kotchenreuther II
Notary Public
My Commission Expires: 11-30-2021



Robert Kotchenreuther II
Notary Public, District of Columbia
My Commission Expires 11-30-21