

Via Electronic Mail

April 20, 2017

Michael W. Kirk
Nicole J. Moss
Brian W. Barnes
COOPER & KIRK, PLLC

Carolyn E. Reed
Linda A. Ross
Leslie Ann Bridges
OFFICE OF THE ATTORNEY GENERAL AND REPORTER

RE: *Wilson v. Long*
Second Supplement to Expert Report by Mr. Warner

To Whom It May Concern:

I write to further supplement my Expert Report, which was originally executed on February 13, 2017, and was supplemented on February 15, 2017.

I submit this second supplement for two reasons. First, Plaintiffs' counsel (Sam Brooke) has provided to me an updated excel file received from Defense Counsel, which has complete data for the months of December 2016 to February 2017, and partial data for March 2017. I therefore am supplementing the analysis I performed previously, using the exact same methods but as applied to these three additional months for which there is complete data.

Second, during my deposition I was asked by Defense Counsel (Nicole Jo Moss) whether in my summations I had excluded four columns if they had values in them. These four columns are labeled: (1) "AIR Already Eligible," which according to the DeskGuide¹ (page 18) appears to indicate that the person submitted a delay appeal but was found to have already been enrolled in TennCare at the maximum level; (2) "AIR Appeal Created In Error," which according to the DeskGuide (page 13) indicates that the delay appeal record was created in error; (3) "AP Resolution Application," which according to the DeskGuide (pages 31-32, 38, 40, 67) indicates that the underlying application had already been denied at some time previously, and (4) "AP Interchange Resolution," which according to the DeskGuide (page 38, 40, 67) indicates that the underlying application had already been approved at some time previously. I testified that I had not done so. To provide a more complete analysis, I herein provide a separate summation that

¹ The DeskGuide I am referring to is dated as having been updated on September 16, 2016, and has a Bates number of TCWIL00003283 on its first page.

utilizes the same techniques described in my original report and first supplement, but which also excludes any appeal records that have a value in any of these four columns.

I attach to this letter an updated chart showing these numbers, which is labeled Exhibit C. The columns in this chart have the same name as those appearing as Exhibit B of my original expert report, except that the column headings starting with “Original Calculation” are utilizing the calculation as described in the original expert report and first supplement, and the columns with headings labeled “Modified Calculation” are excluding values in the four columns described in the previous paragraph.² I also sending contemporaneously with this letter the electronic excel spreadsheet I used to make these calculations, which is titled “TCWIL00007530 Daily ELG AIR-CIR 03.15.2017 - edited by MWarner.xlsx.”

The attached excel file is functionally identical to the file previously produced and described in my first supplemental report, with two differences. First, it contains updated data (i.e., updated rows in the excel file) provided by Defense Counsel. Second, I created four new columns, appearing at columns AC, AE, AG, and AI. These columns are identical to the columns that precede them, except that the formula excludes any row that has a value in the four aforementioned columns. For example, column AB, labeled “Concatenate all Approval Columns Merits Denial Columns and AP Denial Fail to Provide,” is the same as in my original report. Column AC, labeled “Concatenate all Approval Columns Merits Denial Columns and AP Denial Fail to Provide --- AND EXCLUDE rows with value in columns AIR Already Eligible (Z), AIR Appeal Created in Error (AA), AP Resolution Application (BP) and AP Interchange Resolution (BQ),” is the same as Column AB, except that in the formula a value of “1” will be returned only if the four columns referenced above are all empty.

As before, to calculate the values appearing in Exhibit C, one must filter the data by month using the Issue Received Date column (column W).

Based on the foregoing, I update my opinion as follows:

A. Opinion on the Number of Delay Appeals that Involved Underlying Delayed Applications that Were Approved, Denied on the Merits After Being Fully Processed, or Denied for Failure to Respond to a Verification Request from May 2015 to February 2017.

From May 1, 2015, to February 28, 2017, the State received a total of at least 15,717 delay appeals that involved a delayed application and that was either approved, denied because

² Some of the numbers in Exhibit C are not identical to those in Exhibit B. For example, the numbers for May 2015 and August, September, 2016, and November 2016 increased by 1, 6, 1, 1, and 14, respectively. These changes are due to changes in the underlying data provided by the State for these months. For example, the data for appeal 2015-05-ELG-0037102, which has an issue received date of May 12, 2015, changed between the two reports produced by Defendants, which accounts for the change in May 2015 in Exhibit C.

the appellant was found to not be eligible on substantive grounds, or denied because the applicant did not timely respond to a verification request.³ During this period, the State received a monthly average of 714 of these delay appeals related to underlying delayed applications, and in the last three months for which complete data was available—December 2016 and January and February 2017—they received 344, 399, and 384 of these delay appeals related to underlying delayed applications, respectively.

If I exclude from the total count of delay appeals any appeal that has a value in one of the four columns outlined above, the numbers change only slightly. Under this calculation, the State received a total of at least 15,173 delay appeals that involved a delayed application and that was either approved, denied because the appellant was found to not be eligible on substantive grounds, or denied because the applicant did not timely respond to a verification request. During this period, the State received a monthly average of 690 of these delay appeals related to underlying delayed applications, and in the last three months for which complete data was available—December 2016 and January and February 2017—they received 341, 394, and 380 of these delay appeals related to underlying delayed applications, respectively.

The attached chart and table, entitled “Delay Appeals that Involved Delayed Applications that Were Approved, Denied on Substantive Grounds, or Denied for Failure to Verify Eligibility (May 2015 to Feb. 2016)” and labeled Exhibit C, shows the total and monthly numbers of these delay appeals under both methods of calculation.

Sincerely,



Michael Warner
Senior Big Data Analyst
Southern Poverty Law Center

³ Partial information from March 2017 is included in the report from Defendants, but is excluded in my analysis because it is not a complete month.

EXHIBIT C

**Delay Appeals
that Involved Delayed Applications
that Were Approved, Denied on the Merits,
or Denied for Failure to Verify Eligibility
(May 2015 to February 2017)**

EXHIBIT C

Delay Appeals that Involved Delayed Applications that Were Approved, Denied on the Merits, or Denied for Failure to Verify Eligibility
(May 2015 to February 2017)


Month	Original Calculation - Individuals Receiving a Determination			Modified Calculation - Individuals Receiving a Determination			Original Calculation - Individuals Receiving a Denial on Merits			Modified Calculation - Individuals Receiving a Denial on Merits			Original Calculation - Individuals Receiving a Denial for Failing to Respond to Verification			Modified Calculation - Individuals Receiving a Denial for Failing to Respond to Verification		
	Original Calculation - Individuals Receiving a Determination	Modified Calculation - Individuals Receiving a Determination	Change	Original Calculation - Individuals Receiving an Approval	Modified Calculation - Individuals Receiving an Approval	Change	Original Calculation - Individuals Receiving a Denial on Merits	Modified Calculation - Individuals Receiving a Denial on Merits	Change	Original Calculation - Individuals Receiving a Denial on Merits	Modified Calculation - Individuals Receiving a Denial on Merits	Change	Original Calculation - Individuals Receiving a Denial for Failing to Respond to Verification	Modified Calculation - Individuals Receiving a Denial for Failing to Respond to Verification	Change	Original Calculation - Individuals Receiving a Denial for Failing to Respond to Verification	Modified Calculation - Individuals Receiving a Denial for Failing to Respond to Verification	Change
May-15	1232	1171	-61	736	716	-20	411	363	-48	158	157	-1	227	224	-3	227	224	-3
Jun-15	1473	1400	-73	909	892	-17	436	376	-60	226	226	0	178	176	-2	178	176	-2
Jul-15	1460	1378	-82	875	859	-16	433	362	-71	119	118	-1	82	81	-1	119	118	-1
Aug-15	1042	945	-97	614	587	-27	295	215	-80	82	81	-1	41	41	0	41	41	0
Sep-15	710	638	-72	412	404	-8	218	154	-64	81	81	0	276	276	0	81	81	0
Oct-15	552	532	-20	365	359	-6	131	118	-13	431	426	-5	221	219	-2	431	426	-5
Nov-15	445	438	-7	328	326	-2	95	90	-5	158	156	-2	108	104	-4	158	156	-2
Dec-15	461	451	-10	296	291	-5	96	91	-5	137	137	0	60	60	0	108	104	-4
Jan-16	1318	1309	-9	911	909	-2	218	211	-7	116	115	-1	93	93	0	137	137	0
Feb-16	1443	1403	-40	867	843	-24	286	272	-14	81	80	-1	50	49	-1	60	60	0
Mar-16	1045	1024	-21	680	668	-12	255	244	-11	104	104	0	50	50	0	93	93	0
Apr-16	648	636	-12	400	390	-10	148	148	0	98	95	-3	45	45	0	50	50	0
May-16	548	540	-8	357	354	-3	119	118	-1	96	94	-2	52	52	0	45	45	0
Jun-16	478	474	-4	256	253	-3	116	115	-1	94	93	-1	43	43	0	52	52	0
Jul-16	353	350	-3	232	230	-2	81	80	-1	152	150	-2	43	43	0	43	43	0
Aug-16	408	405	-3	229	226	-3	104	104	0	121	120	-1	26	26	0	26	26	0
Sep-16	357	353	-4	227	227	0	98	95	-3									
Oct-16	308	307	-1	204	203	-1	65	65	0									
Nov-16	309	304	-5	195	192	-3	96	94	-2									
Dec-16	344	341	-3	214	212	-2	94	93	-1									
Jan-17	399	394	-5	233	230	-3	152	150	-2									
Feb-17	384	380	-4	266	263	-3	121	120	-1									
TOTAL	15717	15173	-544	9806	9634	-172	4068	3678	-390	2862	2840	-22						

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Second Supplement to Expert Report by Mr. Warner was sent via email to the following counsel of record this April 20, 2017:

Michael W. Kirk
Nicole J. Moss
Brian W. Barnes
COOPER & KIRK, PLLC
e: mkirk@cooperkirk.com
e: nmoss@cooperkirk.com
e: bbarnes@cooperkirk.com

Linda A. Ross
Carolyn E. Reed
OFFICE OF THE ATTORNEY GENERAL
e: linda.ross@ag.tn.gov
e: carolyn.reed@ag.tn.gov



Rachel Grossman