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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **OAKLAND DIVISION**

14 CALIFORNIA DEPARTMENT OF)
 SOCIAL SERVICES,)
 15)
 Plaintiff,)
 16)
 vs.)
 17)
 UNITED STATES DEPARTMENT OF)
 18 HEALTH & HUMAN SERVICES et al.,)
)
 19 Defendants.)

No. C 09-0213-SBA

**ORDER GRANTING
 DEFENDANTS’ MOTION TO DISMISS
 PLAINTIFF’S COMPLAINT FOR
 JUDICIAL REVIEW OF
 ADMINISTRATIVE ACTION**

20 This matter is before the Court on defendants’ motion to dismiss for lack of jurisdiction
 21 pursuant to Fed. R. Civ. P. 12(b)(1). Plaintiff, the California Department of Social Services
 22 (“CDSS”), has filed a pre-enforcement challenge to a regulation promulgated by the Department
 23 of Health & Human Services (“HHS”), to implement changes made to the Temporary Assistance
 24 for Needy Families (“TANF”) program, by the Deficit Reduction Act of 2005.

25 CDSS has failed to establish that its claims are fit for judicial resolution, and it has not

26 Proposed Order
 No. C 09-0213-SBA

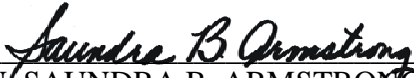
1 alleged sufficient hardship to justify a finding of ripeness. See Abbott Labs. v. Gardner, 387
2 U.S. 136, 148-49 (1967), overruled on other grounds, Califano v. Sanders, 430 U.S. 99, 97
3 (1977). CDSS's claims are contingent on future events that have not occurred, and may never
4 occur. Additionally, the harm alleged by CDSS is neither irremediable, nor immediate. The
5 regulation challenged by CDSS requires no alteration of primary conduct, the harm CDSS
6 alleges is monetary in nature, and CDSS would be entitled to extensive administrative review
7 procedures were the HHS Secretary to reduce California's federal TANF grant at some point in
8 the future. Accordingly, CDSS has not established that its pre-enforcement challenge is ripe for
9 judicial resolution.

10 CDSS has requested that, should the Court find that the Complaint satisfies the fitness
11 inquiry of the ripeness analysis, but fails to satisfy the hardship inquiry, the Court should grant
12 CDSS leave to amend its Complaint. See CDSS's Supp. Br. at 6. The Court finds that CDSS
13 has not satisfied the fitness inquiry and that, in any event, even if the Court were to consider the
14 allegations of harm contained in the proposed First Amended Complaint, those allegations are
15 insufficient to justify a ripeness finding. Accordingly, granting CDSS's motion for leave to
16 amend would be futile, and that motion is hereby DENIED. See Foman v. Davis, 371 U.S. 178,
17 182 (1962).

18 Having reviewed defendants' Motion to Dismiss Plaintiff's Complaint for Judicial
19 Review of Administrative Action, and all the relevant files on record, defendants' motion is
20 hereby GRANTED, and it is

21 ORDERED that plaintiff's Complaint is hereby DISMISSED in its entirety.

22 Dated 9/2/09

23 
24 HON. SAUNDRA B. ARMSTRONG
25 United States District Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 9th day of July, 2009, I caused a true copy of the foregoing
3 Proposed Order Granting Defendants' Motion to Dismiss Plaintiff's Complaint for Judicial
4 Review of Administrative Action to be served on plaintiff's counsel electronically by means of
5 the Court's ECF system.

6 */s/ Stephen J. Buckingham*
7 Stephen J. Buckingham