

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DISTRICT OF COLUMBIA, STATE
OF NEW YORK, STATE OF
CALIFORNIA, STATE OF
CONNECTICUT, STATE OF
MARYLAND, COMMONWEALTH
OF MASSACHUSETTS, STATE OF
MICHIGAN, STATE OF
MINNESOTA, STATE OF NEVADA,
STATE OF NEW JERSEY, STATE OF
OREGON, COMMONWEALTH OF
PENNSYLVANIA, STATE OF
RHODE ISLAND, STATE OF
VERMONT, COMMONWEALTH OF
VIRGINIA, and CITY OF NEW YORK,

Plaintiffs,

v.

U.S. DEPARTMENT OF
AGRICULTURE; GEORGE ERVIN
PERDUE III, in his official capacity as
Secretary of the U.S. Department of
Agriculture, and UNITED STATES OF
AMERICA,

Defendants.

Case No. 1:20-cv-00119

**DECLARATION OF ELISA NEIRA IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Elisa Neira, declare and state as follows:

1. I am over the age of eighteen (18) years, competent to testify to the matters contained herein, and testify based on my personal knowledge and information.
2. I am the Deputy Commissioner of the New Jersey Department of Human Services ("DHS"). As Deputy Commissioner, I oversee the Division of Family Development ("DFD") within DHS that manages a number of safety net programs for low income and working families, including the Supplemental Nutrition Assistance Program ("SNAP").
3. I am aware that the federal government recently issued the Final Rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents" 84 Fed. Reg. 66,782 (Dec. 5, 2019) ("the Rule"). Under prior authority, able-bodied

adults without dependents (ABAWDs) may only receive three months of benefits from SNAP unless they fulfill certain work requirements. However, states with areas of high unemployment may apply for waivers of this time limit. The new final Rule eliminates or restricts many of the criteria upon which states can rely when applying for a waiver of the ABAWD time limit. I have reviewed the Rule and am aware of its direct implications on the administration of SNAP, formerly known as the Food Stamp Program, within New Jersey. I understand that this lawsuit challenges the Rule.

4. Through its programs DHS serves about 2.1 million New Jerseyans, or about one out of every five State residents and one out of every three children. DHS serves older New Jerseyans; individuals and families with low incomes; people with developmental disabilities; or late-onset disabilities; people who are blind, visually impaired, deaf, hard of hearing, or deaf-blind; parents needing child care services, child support and/or health care for their children; people with addiction and mental health issues and individuals with low income who need food assistance, cash assistance, or health care assistance. Through DHS's eight divisions, the agency provides numerous programs and services designed to give eligible individuals and families the help they need for economic and health challenges.

5. DHS administers the SNAP program through DFD. DFD provides leadership and supervision to the public and non-profit agencies that deliver financial assistance and critical safety net services to individuals and families in New Jersey. DFD oversees state and federally funded public assistance programs for New Jersey residents including: SNAP, Temporary Assistance for Needy Families (TANF), General Assistance (GA), Child Support, Child Care, and the refugee resettlement program, among others. DFD accomplishes this by working with a variety of State and local offices including the county boards of social services, the Department of Labor, child care agencies, and the Judiciary.

6. Since 1998, New Jersey has applied to the U.S. Department of Agriculture for a time-limit waiver for the SNAP ABAWD work requirements in counties with unemployment rates that are 20 percent higher than the national average unemployment. The waivers have allowed New Jersey to focus on meeting the needs of the individuals without the threat of losing access to food and nutrition. The State has used its employment and training program to work with people designated as ABAWDs to prepare them for the workforce. Waivers allow New Jersey to continue to provide SNAP benefits in situations where an individual faces education or skills challenges in acquiring a job, barriers in getting matched to effective job training, or otherwise faces obstacles to meeting program requirements. By waiving the time limits, New Jersey is able to continue to build skills rather than lose the individual from the program, thereby helping individuals attain the skills needed to find and sustain employment.

7. The unemployment rate in New Jersey's waived counties is consistently above the national unemployment rate. Some counties are 20 percent above the national average over a 24-month period, while others are grouped together because they are economically tied areas. Some of these regions include more rural communities that lack access, such as transportation, to employment and have limited jobs. In addition, some ABAWDs in these regions may also have limited education and/or work skills and may face other challenges such as housing stability.

8. Currently, New Jersey has a waiver for fifteen of the State's 21 counties. The waiver is based on having 20 percent over the national average unemployment rate in certain counties and uses the regional grouping methodology. The waiver permits DHS to reduce administrative costs in administering the SNAP program and also ensure that no ABAWDs lose SNAP benefits and their access to food and nutrition if they do not meet the required work hours at any given time. New Jersey has been able to use the flexibility in the SNAP program to help individuals without dependents who face challenging economic circumstances continue to receive SNAP benefits beyond a three-month limit. To take away that flexibility and remove the ability to help individuals get on better financial footing is a setback to New Jersey's social service programs and the health and wellbeing of its residents. The current waiver expires on March 31, 2020.

9. When fully implemented, DHS believes that this Rule could threaten the food security of thousands of New Jerseyans and put more pressure on food banks and other non-profits across the State to try to fill in the gaps. Increased food insecurity for any New Jersey residents increases the financial burden on other State and locally funded social services such as homeless shelters, housing assistance, other food assistance programs, legal services, and Medicaid.

10. The Rule does not fully consider the administrative burdens of implementing such a sweeping change in a short time frame. DHS operates a computer system that tracks SNAP recipients in every county in the State. Currently New Jersey has over 670,000 SNAP recipients statewide. In order to comply with the Rule by the effective date, DHS will be forced to reprogram the eligibility system for the second time in 2020. The eligibility system used for SNAP is also used for other benefit programs. The staffing resources and time used to reprogram the eligibility system can negatively impact other programs by likely delaying other needed system updates.

11. In addition, because the Rule only permits waivers based on Labor Market Areas (LMAs) and eliminates groupings, DHS will have to engage in a new analysis in order to request a waiver from the U.S. Department of Agriculture. Shifting to LMA-only designation for waivers fails to capture the context in which many ABAWDs in New Jersey seek work. For example, in southern New Jersey, the LMA covers Burlington, Camden, Gloucester and Salem counties, which are all integrated into the Philadelphia-Camden-Wilmington LMA. This means that none of the counties, all of which have unemployment rates above the national average, will meet the waiver requirements unless the much bigger cities, in adjacent states, to which New Jersey's counties are tied also meet the Rule's requirements. This is inherently inequitable as many ABAWDs do not have the mobility to seek work in the greater areas of the LMA, and it fails to account for the higher unemployment rates that ABAWDs face in those areas.

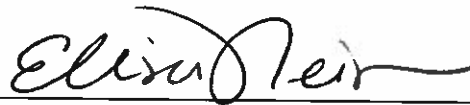
12. Through the strategic use of exemptions, New Jersey has been able to deal with situations of localized economic downturn, loss of certain industries, or isolated incidents of ABAWD inability to find work in non-waived counties. Preventing the State from accumulating exemptions will tie DHS's hands for two years if a recession hits because it will have to wait the required 24 months to demonstrate that the increased unemployment rate meets the Rule's floor. As a result, the State will have no readily-available way to provide food assistance to individuals if there is a sudden increase in unemployed individuals in non-waived areas. If implemented the

Rule will prevent New Jersey from accumulating exemptions in order to use them strategically in the event of an economic downturn. The Rule also eliminates the use of extended unemployment to qualify for a waiver, which means that losing the ability to carry over unused exemptions would similarly inhibit the State's ability to respond quickly to an economic downturn (since the Final Rule only qualifies an area for a waiver after the area unemployment rate exceeds ten percent or after the 24-month average exceeds the new threshold). During the time that an area is beginning to experience an employment crisis, New Jersey may no longer have an adequate supply of exemptions to cover the area due to the loss of this provision and the cap on discretionary exemptions.

13. New Jersey and its residents will likely suffer harm if the Final Rule is implemented by further increasing food insecurity in more New Jersey households.

I declare under penalty of perjury that the forgoing is true and correct to the best of my personal knowledge.

Executed on January 9, 2020 in Trenton, New Jersey.



Elisa Neira
Deputy Commissioner
New Jersey Department of Human Services