

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

DISTRICT OF COLUMBIA, et al.,

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 S. DUKE STOREN IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, S. Duke Storen, 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 Commissioner of the Virginia Department of Social Services (VDSS) and have been committed to underserved populations throughout my career. Prior to my position as Commissioner, I served as the Vice President of Share Our Strength, a national not-for-profit organization that runs the No Kid Hungry Campaign.
3. I am aware that the federal government recently issued a final rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents" 7 CFR 273.24(f) ("the Rule"). Under prior authority, able-bodied adults without dependents (ABAWDs) may only receive three months of benefits from the Supplemental Nutrition Assistance Program (SNAP) unless they fulfill certain work requirements. However, states, including the Commonwealth of Virginia, 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 the Supplemental Nutrition Assistance Program (SNAP), within the Commonwealth of Virginia. I understand that this lawsuit challenges the Rule.

4. The mission of VDSS is “People helping people triumph over poverty, abuse and neglect to shape strong futures for themselves, their families and communities.”

- The VDSS determines eligibility for state and federally funded public assistance benefits programs for Commonwealth of Virginia residents, including but not limited to: SNAP, Temporary Assistance for Needy Families (TANF), Medical Assistance and the Low Income Energy Assistance Program (LIHEAP).
- In addition, VDSS’s SNAP Employment and Training (SNAP E&T) program provides employment and training services to voluntary participants that receive SNAP benefits but not TANF benefits because TANF recipients are subject to and complying with work requirements under Title IV of the Social Security Act.
- VDSS provides protection, intervention, and social services to meet the needs of vulnerable adults and families to help reduce risk and promote self-sufficiency. VDSS administers programs and grants including the following: Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), Medical Assistance, Low Income Energy Assistance Program (LIHEAP), Child Care, Foster Care and Adoption, Auxiliary Grant, and General Relief.

5. Poverty and equity are long-standing, complex issues that the United States has been grappling with for years. A host of socio-economic factors implicate these overarching issues, including a lack of affordable housing and necessary reforms to our education system as essential ingredients to enable the ability and opportunity for sustainable work. It is unreasonable to expect that such a sea change as the Final Rule here could be implemented on such a tight timeframe. The new Rule does not appear to fully consider or comprehend the complexity of this issue or the difficulty of implementation in only a few months’ time.

6. The Commonwealth of Virginia had a state-wide waiver from April 2009 through September 30, 2013. All other times, only certain localities were waived.

7. The Commonwealth of Virginia’s current statewide waiver expires on March 31, 2020. Virginia has not applied for a new waiver because our preliminary evaluation showed no locality that met the new requirements.

8. Approximately 709,000 Commonwealth of Virginia residents received SNAP benefits each month in Fiscal Year (FY) 2019, of which approximately 12,000 are ABAWDs that would be subject to the time limits. If the Commonwealth of Virginia loses its current waiver for 55 localities, VDSS estimates, based on data and experience from other jurisdictions which lost their waivers, that approximately 4,500 could lose SNAP benefits.

9. The unemployment rate of individual localities and, groups of geographically connected localities, has been the primary basis for Virginia’s waiver of the ABAWD time

limits. These rates are more than 20% of the national unemployment rate that currently makes these localities eligible for the waiver.

10. The unemployment rate in the Commonwealth of Virginia as of September 2019 is 2.7%. Virginia has a waiver for 55 localities and of those, 5 have unemployment rates that exceed 20% of the national unemployment rate but do not exceed 6%.

11. Many of the ABAWDs in Virginia face barriers to employment that are common for low-income Virginia residents. Most working-age adults on SNAP who can work, do so. Unfortunately, low-paying jobs with unreliable hours and little to no benefits are all too common for individuals without a post-secondary education. Workers in the low-wage market cannot rely on always having a steady full-time job that pays a living wage, and work requirements will not create these jobs. Without basic benefits, getting sick or having a transportation issue can often mean a worker loses her job. Additional barriers to employment that are common among SNAP recipients include housing instability and/or homelessness, transportation challenges, felony convictions, physical health issues, substance use disorders, and behavioral health conditions.

12. The estimated cost for providing expanded E&T services to the increased number of ABAWDs needing services is \$1,605,500 (\$655,500 General Funds, \$950,000 non-General Funds).

13. The Commonwealth of Virginia's current SNAP E&T program, administered by VDSS, offers the following components to voluntary participants, in addition to extensive case management services:

- Job search training
- Work experience
- Vocational training
- Education

14. Currently, SNAP E&T is offered at 25 locations in Virginia. Separate for SNAP E&T, Virginia was awarded \$1.2 million to serve at-risk ABAWDs in non-waived localities. With the elimination of current waiver, a significant number of ABAWDs will be added to the number that must be served that with this additional funding.

15. VDSS works with Workforce Innovation and Opportunity Act (WIOA), Virginia Division for Aging and Rehabilitative Services, and Virginia Community College System. These workforce programs will be required to serve more when this rule is implemented.

16. In the Commonwealth of Virginia's non-waived localities, participants are time limited and lose benefits after that time limit if not in a qualifying work activity.

17. Loss of benefits by at risk ABAWDs has occurred and continues to occur in non-exempt localities with no legal challenges to date.

18. Virginia currently certifies at risk ABAWDs for 6 months benefits using the 15% discretionary exemptions to ease the administrative burden of the 3 month time limit. Reducing the discretionary exemptions to 12% and not allowing carry over may mean 3-4 month certification periods will have to be reinstated creating a workload issue for staff.

19. Loss of SNAP benefits will likely result in even more food insecurity thus leading to health issues due to poor nutrition.. It may also result in negative health outcomes as individuals may choose to purchase food rather than needed medications.

20. Local economies will be impacted due to the loss of SNAP spending in the communities.

21. Local initiatives related to employment and training may not be able to serve the increased number of individuals needing their services.

22. Loss of SNAP benefits may have a negative impact on housing as funds used for rent and utilities may be used to purchase food.

23. If the Rule goes into effect, it will impose significant additional burdens on Virginia and its agencies including VDSS and the 120 local departments of social services. To implement the Rule, VDSS will be required to update its policies and procedures, information systems, and training materials, as well as train staff from 55 local departments of social services who now need to implement this policy. This effort will involve significant staff time and resources. VDSS would also need to provide expanded E&T services to the increased number of ABAWDs needing services under the Rule.

I declare under penalty of perjury that the foregoing is true and correct and of my own personal knowledge.

Executed on January 7, 2020 in Richmond, Virginia.



S. Duke Storen
Commissioner
Virginia Department of Social Services