

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA, et al.

Plaintiffs,

v.

Case No. 1:20-cv-00119

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.

**DECLARATION OF DAWN M. SWEENEY IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Dawn M. Sweeney, 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 Supplemental Nutrition Assistance Program (SNAP) State Administrator for the Michigan Department of Health and Human Services (MDHHS). I have worked to provide resources for underserved populations throughout my career. Prior to my position as SNAP State Administrator, I served as the Employment and Training Policy Specialist for SNAP and Temporary Assistance for Needy Families (TANF) programs. I also serve as a resource to the MDHHS director and his administration regarding streamlining and improving services to MDHHS clients and Michigan residents in need.

3. I am aware that the federal government recently issued a final rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents" [84 Fed Reg 66782] ("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 Michigan, 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 SNAP, formerly known as the Food Stamp Program, within Michigan. I understand that this lawsuit challenges the Rule.

4. MDHHS empowers every Michigan resident to reach their full potential by providing meaningful connections to work opportunities, economic assistance, and supportive services through the Economic Stability Administration (ESA).

- ESA determines eligibility for locally and federally funded public assistance benefits programs for Michigan residents, including but not limited to: SNAP, TANF, State Disability Assistance (SDA), Partnership. Accountability. Training. Hope. (PATH), Refugee Cash Assistance (RCA), State Emergency Relief (SER), and Direct Support Services (DSS). ESA also determines eligibility for medical assistance programs and subsidized childcare.
- In addition, ESA's SNAP Employment and Training (SNAP E&T) program provides employment and training services to voluntary participants that receive SNAP benefits, including ABAWDs, but not TANF benefits. ESA also performs monitoring, quality control, and reporting functions required by federal law and court orders.

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 change as the Rule here could be implemented on such a tight timeframe. The 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. Since work requirements for ABAWD SNAP recipients were instituted under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Michigan has not been subject to said requirements as the United States Department of Agriculture (USDA) had granted Michigan a statewide waiver each year due to the state's economic conditions and socio-economic factors. Effective January 1, 2017, Michigan had four counties no longer eligible for the waiver due to decreasing unemployment levels and were subject to the ABAWD work rules. The remaining counties in the state remained eligible for the waiver. These counties were: Kent, Oakland, Ottawa and Washtenaw. Effective January 1, 2018 there were an additional 10 counties that were no longer eligible for the waiver, but the rest of the state remained eligible.

7. Beginning October 1, 2018, under the direction of our state legislature, Michigan began a statewide roll off of the ABAWD waiver. This was done based on the recertification of each case and was anticipated to take a full year to address each case.

8. Michigan's current statewide waiver expired on December 31, 2019. On November 25, 2019, MDHHS applied for an ABAWD statewide waiver through December 31, 2020. Michigan is seeking to have 77 of its 83 counties eligible for the waiver.

9. Approximately 1,175,365 Michigan residents received SNAP benefits in Fiscal Year (FY) 2019, of which approximately 101,205 are ABAWDs that would be subject to the time limits. MDHHS estimates, based on data and experience from other states that lost their

waivers, that 80-90% of these ABAWDs, or 89,964 – 91,884 individuals, would lose their SNAP benefits.

10. Michigan's unemployment rate has been more than 20% above the national unemployment rate for most of the last 20 years. Bureau of Labor Statistics Local Area Unemployment Data showing that the Michigan counties have experienced a 24-month average unemployment rate that is 20% above the national average for the same period (the "20% standard") and has been the primary basis for the Michigan's statewide waiver of the ABAWD time limits.

11. The unemployment rate in Michigan as of October 2019 is 4.1%, which remains higher than the national unemployment rate as of October 2019, which is 3.5%. Although the unemployment rate for the majority of Michigan exceeds the 20% standard, it still falls short of the Rule's new unemployment floor rate of 6%, which would limit Michigan to only 13 counties eligible for the waiver.

12. Many of the ABAWDs in Michigan face barriers to employment that are common for our low-income 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. Michigan's labor market has a much higher portion of high-skills jobs than the national average, with a majority of jobs requiring at least a bachelor's degree. Many low-income Michigan residents have a high school degree or less—and a good percent of the ABAWDs in the state have not completed high school. This creates a skills disparity for this population that is greater than in many other areas of the country, which is reflected in the state's above-average unemployment rate, especially in large urban areas such as Detroit and Flint. 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.

13. Administrative logistics would have to be absorbed by MDHHS to adjust operations significantly and incur hundreds of thousands of dollars in additional costs each year that would detract from other elements the SNAP and potentially other programs. Instead of enhancing the SNAP program or the ability of MDHHS and its other programs to enhance self-sufficiency, these costs illustrate that the proposal will detract from the SNAP program and the Rule's stated goal.

14. The state's current SNAP E&T program, administered by MDHHS and the Workforce Development Administration, offers the following components to voluntary participants, in addition to extensive case management services:

- Job search training: sub-components/ activities include employability assessments, training in techniques to increase employability, job placement services, and other trainings and activities to improve employability;

- Work experience: sub-components/ activities include on-the-job training, pre-apprenticeships and apprenticeships, internship programs, and work experience;
- Educational and Vocational Training: sub-components/ activities include adult basic education (including high school equivalency), career and/or technical education programs, vocational training, English language acquisition, integrated education and training/bridge programs, and work readiness training; and
- Job retention services for up to 90 days after employment to assist individuals with maintaining employment after completing other SNAP E&T activities.

15. MDHHS does not have the capacity to expand its SNAP E&T program to meet all of the ABAWDs' needs to help them avoid loss of food assistance. MDHHS's SNAP E&T program is currently funded at \$3.6 million for the entire state. This allows the state to run a robust program through our One Stop Service Centers in only 26 of the 83 counties. The ABAWDs in the remaining 57 counties are more limited in the options they have to meet the work requirements. The SNAP E&T program is already taking advantage of available SNAP E&T 100% funds and 50% funds as issued by Food and Nutrition Service (FNS). Despite these strong efforts, the SNAP E&T program is not funded at a level that would allow for participation of thousands of additional participants.

16. Michigan has approximately 400,000 exemptions accumulated from FNS over the years of ABAWD regulations. The Rule's limits on carryovers of exemptions will have a definite impact on the state's ability to use these exemptions at our discretion when needed.

17. MDHHS is also concerned about the substantial resources that would be needed to defend against potential legal challenges from ABAWDs who lose access to SNAP benefits. Other states, including New York, Louisiana, and Florida have faced legal challenges by ABAWDs and advocates when they attempted to implement ABAWD rules. ABAWD implementation is particularly susceptible to legal challenges because the rules are complex and burdensome to operationalize.

18. Because of the short ABAWD time limit and federal regulatory constraints on the reporting, MDHHS requires SNAP recipients to report more frequently on their compliance with ABAWD work requirements. Increased frequency of reapplication will place a strain on MDHHS case processing staff and customers. SNAP recertification requires completion of a lengthy application form, an interview, and submission of verification documentation. Additional verifications at certification will have to be requested to determine exemption status or participation in other qualifying activities. To comply with due process and federal SNAP regulations, MDHHS must send out an array of consumer notices on very specific timelines, dependent upon the degree to which the household complies with each step in the recertification process. Eligible individuals will have more opportunities to lose access to food assistance for administrative reasons, such as not timely returning SNAP recertification application paperwork. MDHHS will have to absorb the increased SNAP recertification demands.

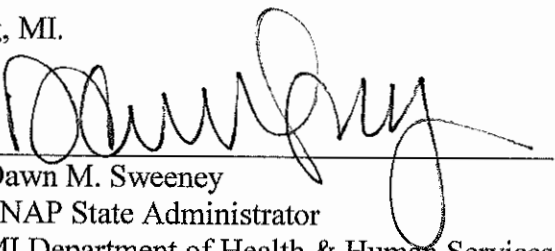
19. By losing much-needed nutrition assistance, Michigan residents who lose their SNAP benefits may face negative health consequences. Food insecurity is associated with

greater use of health care services. Adults in food-insecure households are about 50% more likely to visit an emergency room and to be admitted to a hospital, and they stay hospitalized about 50% longer, than adults in food-secure households; thus driving up healthcare costs.

20. The large loss of SNAP benefits contemplated by this Rule will also have a negative impact on sectors of the local economy, which has traditionally struggled with food insecurity and food deserts. By cutting off SNAP benefits without the beneficiary having secured stable long-term employment, this proposal will decrease the purchasing power of some of Michigan's lowest income residents, making it harder to establish supermarkets and other types of food access in these communities.

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

Executed on January 8, 2020 in Lansing, MI.

  
Dawn M. Sweeney  
SNAP State Administrator  
MI Department of Health & Human Services