

**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, ATTORNEY GENERAL DANA NESSEL ON BEHALF OF THE PEOPLE 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 LAURA ZEILINGER IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Laura Green Zeilinger, 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. Since January 2015, I have served as Director of the District of Columbia (the District) Department of Human Services (DHS). I have been committed to underserved populations throughout my career. Prior to my position as DHS Director, I served as the Deputy Director and then Executive Director of the United States Interagency Council on Homelessness, where I was responsible for the implementation of Opening Doors: Federal Strategic Plan to

Prevent and End Homelessness, an effort that includes the coordination of Federal homelessness policies among nineteen federal departments and agencies, as well as partnerships with state and local communities, non-profits, and the private sector. I also previously served as DHS Deputy Director for Program Operations and led efforts to create permanent supportive housing for persons experiencing homelessness and housing stability for District residents.

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. 66,782 (Dec. 5, 2019) (the “Final Rule”). Under prior authority, able-bodied adults without dependents (ABAWD) may only receive three months of benefits from the Supplemental Nutrition Assistance Program (SNAP) unless they fulfill certain work requirements. However, states, including the District of Columbia, with areas of high unemployment may apply for waivers of this time limit. The 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 Final Rule and am aware of its direct implications on the administration of the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, within the District. I understand that this lawsuit challenges the Final Rule.

4. DHS empowers every District resident to reach their full potential by providing meaningful connections to work opportunities, economic assistance, and supportive services through two administrative offices: the Economic Security Administration (ESA) and the Family Services Administration (FSA).

- ESA determines eligibility for locally and federally funded public assistance benefits programs for District residents, including but not limited to: SNAP, Temporary Assistance for Needy Families (TANF), Interim Disability Assistance (IDA), Program on Work, Employment and Responsibility (POWER), Refugee Cash Assistance (RCA), Burial Assistance (BA), and General Assistance for Children (GC). ESA also determines eligibility for medical assistance programs, and subsidized child care.
- In addition, ESA’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, including SNAP recipients who are subject to the ABAWD work requirements . ESA also performs monitoring, quality control, and reporting functions required by federal law and court orders.
- FSA provides social services, case management and crisis intervention to meet the needs of vulnerable adults and families with children to help reduce risk and promote self-sufficiency. FSA administers programs and grants including the following: Homeless Services to individuals and families who are homeless or at risk of homelessness including outreach, crisis intervention, prevention, shelter, transitional housing, rapid rehousing, permanent supportive housing, emergency rental assistance, and housing navigation; Domestic Violence Services including protection, emergency shelter, and crisis intervention services to victims of domestic violence; Youth Services including the Alternatives to the Court Experience, Parent and Adolescent Support Services, Teen Parent Assessment,

Youth Homeless Services, and Strengthening Teens Enriching Parents programs; Strong Families which provides comprehensive case management and support to families in crisis to help stabilize the family; the Refugee Resettlement Program; and the Community Services Block Grant.

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 could be implemented on such a tight timeframe. The Final 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, the District has never been subject to said requirements as the United States Department of Agriculture (USDA) has granted the District a statewide waiver each year due to the District's economic conditions and socio-economic factors.

7. The District's current statewide waiver expires on March 31, 2020.

8. Approximately 110,000 District residents received SNAP benefits in a given month during Fiscal Year (FY) 2019, of which approximately 14,500 would be subject to the time limits as a result of the District losing its statewide waiver under the Final Rule. If the District loses its statewide waiver, DHS estimates, based on data and experience from other jurisdictions which lost their waivers, that 80-90% of individuals subject to the SNAP ABAWD work requirements and time limits, or 11,600 – 13,050, would lose their SNAP benefits.

9. The District's unemployment rate has been more than 20 percent above the national unemployment rate for most of the last 25 years, with rare exceptions falling during times of high unemployment in both the District and nationally. Bureau of Labor Statistics Local Area Unemployment Data showing that the District has experienced a 24-month average unemployment rate that is 20 percent above the national average for the same period (the "20 percent standard") has been the primary basis for the District's statewide waiver of the ABAWD time limits.

10. The unemployment rate in the District as of September 2019 is 5.4%, which is 54% higher than the national unemployment rate as of September 2019, which is 3.5%. Although the unemployment rate in the District far exceeds the 20 percent standard, it still falls short of the Final Rule's new unemployment floor rate of 6 percent, which disqualifies the District from having a statewide waiver under the Final Rule.

11. Unlike other states, the District does not have "substate" areas recognized by the Bureau of Labor Statistics (BLS). The District is administratively divided into eight wards, three of which have unemployment rates higher than the unemployment rate floor. As of September 2019, Ward 5 has an unemployment rate of 6.5%, Ward 7 has an unemployment rate of 8.7%, and Ward 8 has an unemployment rate of 11.6%, more than double the unemployment rate floor.

However, DHS would not be able to obtain a partial waiver targeting these wards because the Final Rule restricts partial waivers to Labor Market Areas (LMAs) as designated by the Department of Labor, and the District has no sub-region that is designated as an LMA. Moreover, due to the geographic size of the District, concentration of District residents, and rate of homelessness, subdivisions would be highly problematic.

12. Many individuals who would become subject to the SNAP ABAWD work requirements and time limits in the District 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 their job. The District'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. Most low-income District residents have a high school degree or less, creating a skills disparity for this population that is greater than in many other areas of the country, which is reflected in the District's consistently above-average unemployment rate. The District is also in the unique position of having a majority of jobs filled by individuals that reside in neighboring jurisdictions, all of which have higher average educational attainment levels than the District. This competition for available jobs exacerbates low-income residents' skills disparity and ultimate inability to find work that supplies a living wage. 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. There are many people who have spent years working manual labor jobs who are able to work, but not in positions that they have the skills to be competitive for.

13. Administrative logistics would have to be absorbed by DHS to adjust operations significantly and incur hundreds of thousands of dollars in additional costs each year that would detract from other elements of the District's SNAP and potentially other programs. DHS anticipates that it would have to add additional full-time employees to meet this need and would have to significantly expand capacity of its work-related programs. The District would also need to develop and disseminate notices to impacted and potentially impacted households advising of their ABAWD status, rights and responsibilities with respect to the new work requirements, reporting obligations, and advanced notice of any adverse actions taken on their SNAP cases as a result of the Final Rule's implementation. DHS anticipates high administrative costs (staff, notices, service center time) incurring as a result. Instead of enhancing the SNAP program or the ability of DHS and its other programs to enhance self-sufficiency, these costs illustrate that the proposal will detract from the SNAP program and the Final Rule's stated goal.

14. The District's current SNAP E&T program, administered by DHS, offers the following components to voluntary participants, including assessments and 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. DHS does not have the capacity to expand its SNAP E&T program to meet all of the needs of individuals who would become subject to the SNAP ABAWD work requirements and time limits to help them avoid loss of food assistance. DHS's SNAP E&T program currently serves about 1,200 individuals and is planning to serve 2,000 individuals in FY 2020, or a fraction of the estimated ABAWD population in the District. The SNAP E&T program is already taking full advantage of available SNAP E&T 100 percent funds and 50 percent funds. The District recently learned that SNAP E&T 50 percent funding has reached the cap for fiscal year 2020 based on State Plan budget submissions from all of the states. The District has consistently leveraged a significantly higher portion of 50 percent funds per capita than most states by spending several hundred thousand dollars of its own resources and leveraging millions of dollars in subgrantee resources to serve our SNAP population through this program. 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. And with SNAP E&T 50 percent funds being more limited than in past years and federal funding for other workforce programs remaining relatively flat, it is unclear whether the District will have adequate funds to expand workforce services for ABAWDs even over a multi-year timeframe.

16. The District does not have any discretionary exemptions yet because it has not disqualified residents for failing to meet ABAWD time limit requirements. Although the Final Rule's limits on carryovers of exemptions does not have an immediate impact on the District, it limits the District's ability to provide exemptions for District SNAP recipients in the future.

17. DHS is also concerned about the substantial resources that would be needed to defend against potential legal challenges from individuals who become subject to the SNAP ABAWD work requirements and time limits who lose access to SNAP benefits. In particular, DHS is aware that 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. The Agency will be tasked with creating new ABAWD notice content that, in the opinion of any Judge or Administrative Law Judge reviewing a legal challenge, is sufficiently thorough while distilling the extremely complex ABAWD rules down to a reading level and format that is easy for a lay-audience of public assistance beneficiaries to comprehend.

18. Because of the short ABAWD time limit and federal regulatory constraints on the reporting DHS may require from SNAP recipients, unless DHS significantly increases the

frequency with which SNAP ABAWD recipients must reapply for SNAP from yearly to every 4 months, it would be possible for ABAWDs to lose SNAP eligibility several months before they are notified of their failure to meet ABAWD work requirements. Increased frequency of reapplication will place a strain on DHS case processing staff and customers. SNAP recertification requires completion of an 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, DHS 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. DHS will have to absorb the increased SNAP recertification demands.

19. By losing much-needed nutrition assistance, District 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 percent more likely to visit an emergency room and to be admitted to a hospital, and they stay hospitalized about 50 percent longer, than adults in food-secure households – thus driving up healthcare costs.<sup>1</sup>

20. The large loss of SNAP benefits contemplated by this Final Rule will also have a negative impact on sectors of the local economy, which has traditionally struggled with food insecurity and food deserts. This drop will have a particularly harsh impact on the areas of the District that see the highest rates of unemployment: Wards 5, 7, and 8. The District estimates that of the amount of individuals who will become subject to the SNAP ABAWD work requirements and time limits in the jurisdiction, roughly 80-90% or 11,600 – 13,050 individuals would lose SNAP benefits due to being unable to secure employment within the three-month period. As SNAP benefits provide purchasing power to help SNAP customers meet their food needs, a significant drop in SNAP participants and their benefits as a result of the ABAWD time limits will translate into \$36 - \$41 million in lost economic activity. This drop would be concentrated in the wards that need the benefits the most. In fact, currently Ward 8 alone has more than 5,600 individuals who will become subject to the SNAP ABAWD work requirements and time limits, more than a third of all of the SNAP ABAWD recipients in the District. The loss of these stabilizing funds would not only affect the individuals themselves, but it would also affect DHS's efforts to increase access to healthy food for District residents in our most challenged wards. By cutting off SNAP benefits without the beneficiary having secured stable long-term employment, this proposal will decrease the purchasing power of some of the District's lowest income residents, making it harder to establish supermarkets and other types of food access in these communities.

21. The loss of SNAP benefits as a result of the Final Rule will also affect several local initiatives, including DHS's Healthy Corner Store Initiative and Produce Plus program, which enhances SNAP through SNAP benefit matching. By definition, preventing individuals from accessing SNAP will also make them ineligible for these programs. Further, the District's

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<sup>1</sup> [http://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1105&context=ukcpr\\_papers](http://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1105&context=ukcpr_papers).

Food Policy Council has expressed concern that the Final Rule will lead to a perceived decrease in the demand for healthy foods, which will deeply affect our local farmers who participate in the more than 30 farmer's market locations across D.C. This will further exacerbate the lack of healthy food options in Wards 5, 7, and 8 and undermine years of efforts in this space.

22. Without SNAP, individuals who lose eligibility as a result of the SNAP ABAWD time limits in the District will have less money to spend on food and may have to use financial resources reserved for other expenses, including rent. Diverting such resources to pay for food can cause hardship in paying for housing expenses, which in turn may lead to homelessness.

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

Executed on January 14, 2020 in Washington, DC.



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Laura Green Zeilinger  
Director  
D.C. Department of Human Services