

**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 HOLLY FREISHTAT IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Holly Lynn Freishtat, declare and state as follows:

1. I am over the age of eighteen (18) years, competent to testify to the matters contained herein, and make this declaration based on my personal knowledge and information.
2. I am Food Policy Director for the City of Baltimore and have served in this role for over nine years. I have spent over twenty years working on food issues in a variety of contexts; experiences that have provided me with an understanding of the food system from the perspective of a food policy strategist, nutritionist, educator and a grower. I have a Masters of Science from Tufts University in Applied Nutrition: Agriculture, Food and The Environment; a Bachelor of Science from University of Vermont in Nutrition; and served as a Food and Society Policy Fellow.

3. In my role as Food Policy Director, I work city-wide with many government departments to align priorities and projects around improving the Baltimore City food environment. As Food Policy Director, I co-published the 2015 and 2018 Baltimore City Food Environment Reports that are the guiding research on food deserts in Baltimore City and have presented nationally and internationally.

4. I established the Baltimore Food Policy Initiative (BFPI) in 2010 to address health, economic and environmental disparities in Healthy Food Priority Areas (formerly Food Deserts). This interagency collaboration implements the City's eight-point Healthy Food Environment Strategy. Since 2012, BFPI has mapped Baltimore's food environment in partnership with the Johns Hopkins Center for a Livable Future based on a City-approved definition of food desert, which takes into account income, vehicle availability, distance to a supermarket, and overall availability of healthy food in an area. These maps reveal areas of concentrated poverty, food insecurity and lack of investment, and correlate to areas where many SNAP recipients live. BFPI has been highly involved in matters pertaining to the Farm Bill, particularly federal nutrition benefit assistance. This includes federal and state policies that impact SNAP, supporting the creation and future piloting of online SNAP benefits, and SNAP retailer technical assistance.

5. I understand that the federal government recently issued a final rule titled "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 aged 18 through 49 without dependents (ABAWDs) may only receive Supplemental Nutrition Assistance Program (SNAP) benefits for three out of 36 months unless they document certain qualifying activities. However, the State of Maryland historically has applied for and received an area waiver of the time limit for those residing in Baltimore City, because the area has high unemployment and/or insufficient jobs. The new Rule eliminates or restricts many of the criteria upon which states can rely when applying for an area 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), known in Maryland as the Food Stamp Program, within Baltimore City and I understand that this lawsuit challenges the Rule.

6. The Rule does not take into account the complexity of the different populations that make up ABAWDs, nor does it provide sufficient timing or funding for a state to effectively put measures in place to support these individuals before waivers are set to expire.

7. Since work requirements for ABAWD SNAP recipients were instituted under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the United States Department of Agriculture has granted the State of Maryland an area waiver for Baltimore City each year due to the economic conditions and socioeconomic factors. Baltimore City's current area waiver expired on December 31, 2019 however Maryland DHS said it has been extended to March 31, 2020 until the Final Rule is implemented. Waivers for the other jurisdictions in Maryland currently operating under waivers (Allegany, Caroline, Dorchester, Garrett, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties) will expire on March 31 as well.

8. Based on best available information at the time of execution of this declaration, approximately 166,000 Baltimore City residents received SNAP benefits each month in Fiscal Year (FY) 2019, of which approximately 15,000 are ABAWDs that would be subject to the time limits. If the Baltimore City loses its waiver, based on data and experience from other jurisdictions that lost their waivers, approximately 11,000–15,000 individuals would lose their SNAP benefits.

9. Baltimore City's unemployment rate is consistently above the national unemployment rate and by a significant margin. Bureau of Labor Statistics Local Area Unemployment Data show Baltimore City has experienced a 5.6% average 24-month unemployment rate as of October 2019 – 32% higher than the national unemployment rate of 3.8% during the same period. The “20 percent standard” has been the primary basis for the Baltimore City's waiver of the ABAWD time limits, and although Baltimore City typically far exceeds this, it still falls short of the Rule's new unemployment floor rate of 6 percent.

10. Under the Rule, Baltimore City is considered part of the Baltimore-Columbia-Towson labor market area (LMA) for waiver eligibility purposes. The other counties and municipalities included in the LMA are all more prosperous than Baltimore City, and thus the combined unemployment rate for the region dilutes the reality of unemployment in Baltimore City. Even still, the 24-month unemployment rate in the LMA as of 2019 is 4.0%, which is higher than the national unemployment rate of 3.8% during that period. By lumping Baltimore City in with nearby but dissimilar economies, the Rule effectively disqualifies the Baltimore Region from qualifying for an area waiver.

11. In a 2019 study conducted by the nonpartisan Baltimore Metropolitan Council, “more than two-thirds of job seekers said that the jobs they find don't pay enough to cover their basic costs of living. While increasing levels of educational attainment and training are linked to higher wages, nearly 60% of job seekers reported that education and training opportunities are too expensive. In addition, more than 40% of job seekers reported difficulties affording the items they need for work.”

12. Many of the ABAWDs in Baltimore City face barriers to employment that are common for our low-income residents. Most working-age adults on SNAP who can work do so. This includes ABAWDs who are underemployed or seasonally employed and do not meet the 20 hour per week requirement. Common barriers to employment for ABAWDs include applying for jobs but not being hired, having been formerly incarcerated, having undiagnosed physical health issues, behavioral health conditions, or substance use disorders. In addition, many ABAWDs have children or older family members they provide for but as they may not be the primary caregiver or live in the same household with the ABAWD, they are not deemed as having dependents.

13. In Baltimore City, Black residents are the most likely of any racial or ethnic group to participate in SNAP, at a rate 3.6 times higher than white residents. Increasing barriers to participation will disproportionately impact Black communities and other communities of color.

Harms to the Local Economy

14. The Rule will cause undue harm to local and regional economies like Baltimore City's where SNAP is an economic driver and has "multiplier effects" for the local economy. For every dollar spent in SNAP benefits, the USDA's Economic Research Service estimates an economic impact of \$1.54. This includes at retailers like grocery stores, corner and convenience stores, and public markets. It also includes places like farmers markets, many of which have programs that match SNAP benefits to give low-income shoppers more access to fresh produce and local foods.

15. SNAP is an economic driver in Baltimore City and the potential economic impact of the Rule is a direct annual loss of approximately \$24.4 to 33.3 million. This does not account for the multiplier effects of these benefits when they circulate in the local economy.

16. The Center on Budget and Policy Priorities 2019 national data reflects that more than 80% of SNAP benefits are redeemed at supermarkets. When there are changes in SNAP or the economy weakens, the supermarkets have significant financial challenges since they typically operate on small profit margins of 1-3 percent. The Baltimore City Food Environment Maps and analyses reveal that of the 47 supermarkets currently in Baltimore 24 are "preventing" food deserts, meaning that if the store were to close, the area would become a food desert due to surrounding conditions. These are the stores that depend most on customers redeeming SNAP benefits as the primary form of payment, and with such a drastic reduction in SNAP customers, the change in the Rule could lead to store closures and widespread decreases in food access. The decrease in overall purchasing power could also make it more difficult to establish new supermarkets and other sources for food access in these communities into the future.

Escalated Food Insecurity

17. In Baltimore City, one in five individuals are food insecure, meaning they don't have regular access to nutritious food. SNAP is proven to reduce food insecurity in the most vulnerable populations. SNAP helps low-income households afford healthier diets and preventative health care. It can offset some of the stress associated intermittent or unpredictable meals and having to balance food affordability with medicine, housing, or other necessary expenses.

18. Research is clear that food insecurity has tremendous impacts on health and well-being. Among adults, food insecurity is associated with hypertension, coronary heart disease, diabetes, and kidney disease; and poorer general and mental health. The stressors of food insecurity have chronic and mental health impacts on people of every age. On average, low-income adults on SNAP incur nearly 25% less, about \$1,400 per year, in medical care costs than low-income non-participants. These savings are even greater for those with hypertension (nearly \$2,700 less) and coronary heart disease (over \$4,100). SNAP is a preventive strategy both in terms of health outcomes as well as healthcare spending.

19. Studies have shown that an increase in food insecurity in the U.S. results in increased violent crime. Based on the timing of the rule, thousands of ABAWDs in Baltimore City will lose their SNAP as of July 1, corresponding with the typical seasonal peak in crime

experienced in Baltimore City during the summer. The removal of SNAP as a resource to keep people food secure will put vulnerable people in extreme positions to try to prevent hunger, and also has the potential to unduly strain Baltimore City's public safety resources as well.

20. Additionally, there are several programs in Baltimore City that provide matching benefits for SNAP to increase low-income residents' ability to purchase and consume healthy foods. Many of these focus on fresh, local produce at farmers markets or farm stands. These programs are contingent on receiving SNAP benefits and thus ABAWDs will become ineligible, cutting off further resources for healthy food. The loss of this population as customers will decrease the demand for these healthy foods, affecting local farmers and healthy food purveyors.

Harms to State Agencies

21. This Rule will also significantly increase the burden on the state agencies that sign people up for these programs, Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS), and increase demands for SNAP workforce development thus reducing their efficiency and impact. The Rule is complex and the increased administrative logistics needed to effectively communicate and implement it will lead to additional administrative costs each year that will have to be absorbed by BDCSS and DHS, at the expense of other programs and aspects of their work related to SNAP. Further, the Rule does not provide sufficient time for states to contact potential ABAWDs and effectively offer job training or other solutions.

22. Maryland's SNAP E&T program currently has 12 vendors that offer approved SNAP workforce training in Baltimore City. Even as Maryland's E&T program has expanded in Baltimore in the past year it serves only a few hundred ABAWDs, and does not have anywhere near the capacity to train up to an additional 15,000 ABAWDs who may now seek training opportunities. The Rule provides no additional support or funding for these programs, and with a 50 percent required match, Baltimore City vendor partners are already stretched on the services they can provide. It would take several years and significant additional funding to meet the increased demand the Rule will create for workforce training.

23. Further, the lack of sufficient and appropriate jobs, paired with barriers to employment means that many ABAWDs who engage in SNAP E&T programs will be unable to find employment immediately after training, and will be removed from SNAP after three months. In FY18, only 57% of ABAWDs (182 out of 320 people) who had completed E&T in Maryland had unsubsidized employment in the second quarter after program completion.

24. With the Rule changing exemption carryover, there will not be sufficient exemptions to meet the need in Baltimore City, let alone the rest of the state.

Increased Burden on Community Based Organizations


25. As individuals lose SNAP benefits, social services will become more strained as they are sought after by more people to fill gaps in food security. Places like food pantries and soup kitchens in Baltimore are already under-resourced and over capacity, and these social safety nets cannot automatically absorb more demand. The Maryland Food Bank is the largest

organization providing resources to food insecure residents through targeted programs that offer food assistance at 477 pantries, shelters, and community organizations across Baltimore City. Maryland Food Bank and its partners distributed enough food to provide more than 9.5 million meals in Baltimore last year. But for every meal provided by Maryland Food Bank, SNAP provides 9 meals. The impact of SNAP is magnitudes above what the food assistance safety net is capable of providing. The loss of these benefits will put added strain on not only household budgets, but a hunger-relief network that is already operating at maximum capacity.

26. By cutting SNAP benefits for thousands of the most vulnerable members of our community, the Rule will predictably result in a sicker and poorer state population.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Executed on January 10th, 2020 in Baltimore City, Maryland.



Holly Lynn Freishtat
Baltimore City Food Policy Director