

**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 DR. DEIDRE S. GIFFORD IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Dr. Deidre S. Gifford, pursuant to 28 U.S.C. Section 1746, declare under penalty of perjury as follows:

1. I am the Commissioner of Connecticut's Department of Social Services ("DSS"). I respectfully submit this Declaration to place before the Court certain testimony relevant to the relief requested in the above-captioned case. I am familiar with the matters set forth herein, either from professional knowledge, conversations with DSS staff, or on the basis of documents and information that have been provided to me and that I have reviewed.

2. I am a medical doctor with an M.D. from Cornell University Medical College. I trained in obstetrics and gynecology at University Hospitals of Cleveland and the UCLA Medical Center. I hold an M.P.H. in epidemiology and a B.S. from the University of California, Los Angeles.

3. I have served as DSS Commissioner since June 21, 2019. Immediately before assuming my current role, I served as Deputy Director of the Center for Medicaid and CHIP Services (CMCS) at the federal Centers for Medicaid and Medicare Services, an office within the U.S. Department of Health and Human Services. I have also been Medicaid Director in the Rhode Island Executive Office of Health and Human Services, and Director of State Policy and Programs at the National Association of Medicaid Directors (NAMD).

4. Created in 1993 when the Connecticut General Assembly merged two existing state agencies, DSS is charged by statute with administering key social support programs including, but not limited to: Medicaid; the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance for Needy Families (TANF); energy assistance for low-income families (LIHEAP); state supplements to the federal Supplemental Security Income (SSI) program (State

Supplement); and federally-funded assistance programs for refugees and asylees. The DSS Commissioner is authorized to establish rules, regulations, and policies to carry out the Department's statutory responsibilities, including administering and operationalizing rules, regulations, and policies that determine how public assistance programs are provided in Connecticut.

5. DSS is working towards a Connecticut where every resident has the opportunity to be healthy, secure, and thriving. We fulfill our mission of enhancing the well-being of Connecticut's individuals, families, and communities through delivering and funding a wide range of health and human services programs and services. Every year, we serve about 1 million Connecticut residents of all ages – approximately 28% of the state's total population – across all of the state's 169 cities and towns.

6. DSS is responsible for administering SNAP in Connecticut. Through DSS, the state provides SNAP assistance to one in ten Connecticut residents – approximately 363,500 individuals in nearly 213,000 households, as of November 2019. SNAP significantly reduces food insecurity in our state, particularly during times of economic sluggishness. SNAP also provides essential nutrition to many working families. Census data shows one in thirteen Connecticut workers participate in SNAP. This includes individuals who are working but not meeting the minimum work requirements necessary to exempt them from the time limits that apply to Able-Bodied Adults Without Dependents (ABAWDs).

7. As of November 2019, there were 128,641 Connecticut SNAP recipients between the ages of 18 and 49. Of this population, 25,788 (or 20%) of the individuals were ABAWDs exempt from work requirements exclusively because of the geographic waiver exemption. This is the “at-risk” population expected to lose SNAP benefits pursuant to the new rule.

8. Connecticut has continuously operated under either a statewide or partial waiver of the ABAWD work requirements since 1998. Connecticut used a partial waiver from 1998 to 2008. Connecticut expanded from a partial waiver to a statewide waiver in 2009 pursuant to the American Recovery and Reinvestment Act of 2009. Connecticut has used a partial waiver since 2016. The partial waiver currently in place will expire on March 31, 2020.

9. Partial waivers have covered a large portion of the state population, primarily (though not exclusively) concentrated in more urban parts of the state and transcending traditional county borders or Labor Market Area (“LMA”) groupings. Waivers have been applied to communities with higher rates of unemployment, regardless of LMA.

10. The at-risk population is heavily centralized in our more populous towns and cities, with nearly 80% (19,965) of the at-risk population located in just 16 communities: Hartford, New Haven, Waterbury, Bridgeport, New Britain, Meriden, East Hartford, Norwich, Manchester, Bristol, West Haven, New London, Windham/Willimantic, Middletown, Windsor and Hamden.

11. The prior interpretation of “lack of sufficient jobs” as well as the discretionary authority to define an “economic area” provided Connecticut with the needed flexibility to accurately measure the local economic situation and labor market. It also allowed Connecticut to carefully adjust what would otherwise be overly rigid blanket rules in order to address localized needs. Delegating this responsibility to states is appropriate, as states are better positioned compared to federal agencies when assessing the accessibility of job opportunities beyond invisible town, county, or LMA borders.

12. The prior rules allowed states to waive the ABAWD time limit in geographic areas with high unemployment or insufficient jobs. The rules governing eligibility for waivers

were in place for nearly 20 years and Connecticut has applied for and used these waivers during times of high unemployment or insufficient jobs. The prior waiver rules were reasonable, transparent, and manageable for states to operationalize. These waivers allowed states to protect individuals in areas where finding a job can be difficult, and by continuing to provide basic food support while they look for employment.

13. The new rule only permits states to group waivers by LMAs, while disallowing states from excluding certain areas within the LMA. There are numerous reasons that a state would choose to group towns other than by LMA, such as cost of living, lack of access to or availability of transportation, or lack of employers within a certain job field. The new rigid limits on grouping reduces valuable state flexibility and forces states into using an overly broad tool instead of a more targeted and informed approach.

14. As of December 2018, Connecticut had five cities with an unemployment rate over 6% – each city over 50% above the national average unemployment rate at the time. Although the new rule purports to allow exemptions for areas with a rate over 6%, because the new rule also forces states to only group cities by LMA, none of these cities will maintain an exemption when the new rule goes into effect. As a result, residents in these economically struggling urban communities that are doing substantially worse than the national average will now also be more nutritionally at-risk and pushed even further into poverty. Forty-two percent of the state residents expected to lose SNAP benefits because of the new rule live in these five cities.

15. As another example of how the new rule will negatively affect urban areas in Connecticut, it is instructive to look to the southwestern part of our state where the city of Bridgeport will be disqualified because it is grouped in an LMA with Greenwich and Darien.

Although in the same LMA, these municipalities have substantially different actual labor markets, job opportunities, and economies. Indeed, Greenwich and Darien routinely rank among the communities with the highest per capita income in the nation, while Bridgeport is one of the poorest cities in the nation.

16. The average SNAP benefit for all SNAP recipients in Connecticut is \$134.29 per person. If all of the at-risk ABAWD individuals were to lose access to SNAP benefits, as expected under the new rule, the total loss of direct benefits to state residents would be approximately \$41,556,846.24 per year. This amounts to a loss of between \$74 million and \$104 million annually in state economic activity, given that SNAP benefits have a significant positive economic multiplier effect.

17. This rule will also exacerbate costs that the state must pay to care for the health of its residents, most notably costs paid through the Medicaid program. By taking away basic nutritional support from financially needy residents, the effect of this rule change will be to lower the overall health of those who lose SNAP benefits. Multiple studies have shown the link between lack of proper nutrition and the negative impact on health and health care costs.

18. ABAWDs in Connecticut face structural cost-of-living challenges that can limit their ability to find and hold jobs sufficient to maintain SNAP benefits. In 2016 nearly 40% of Connecticut underemployed or low-paid households could not afford basic needs including housing. A lack of affordable housing, which contributes to housing insecurity and periods of homelessness, creates challenging situations from which it can be practically impossible to obtain and maintain sufficient employment. Unless an ABAWD works for an average of 80 hours a month, they will lose their basic nutritional support; however, due to housing insecurity, ABAWDs often struggle to be in a position to meet this threshold.

19. The new rule adds administrative costs to DSS and the state. Allocating financial and staff resources to address the new rule's complexity and inefficiency will detract from other necessary components of SNAP administration.

20. Administrative costs will include a minimum of \$207,500 just for the costs of direct communications to all ABAWDs, plus costs to develop notices and make system coding changes to execute the mailings. Based on prior mass mailings of this scope, there will be increased operational burdens on our call centers and field offices, slowing or disrupting the pace of other critical work. Additionally, given the volume of discontinuances involved, we anticipate a significant rise in the number of hearings requested, which will require the hiring of additional hearing officers with an average annual salary of approximately \$131,500 (average \$87,695 annual salary + 50% fringe).

21. Operational costs of this new rule will continue into the future. Monitoring ABAWD compliance is an arduous and inefficient process, requiring substantially more staff effort than the typical SNAP case. ABAWD rules are more complex than most other eligibility rules with additional client reporting requirements and additional worker evaluation required compared to typical cases. Additionally, all eligibility staff will need to be retrained in ABAWD case administration, given that the new rule greatly expands the number of statewide ABAWD cases.

22. DSS will be required to make system coding changes to implement the new rules. System information technology changes are currently fully scheduled through 2020. Designing and testing new expedited system changes in advance of an April 1, 2020 effective date will displace other important system changes intended to ensure SNAP program integrity and operational efficiency.

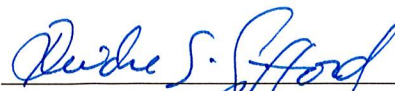
23. Connecticut will not be able to support the at-risk ABAWDs who seek job training assistance in order to maintain SNAP benefits. Connecticut, like many other states, does not have sufficient capacity in the SNAP Employment & Training (“E&T”) Program to support the number of ABAWDs expected to lose benefits under the new rule. Connecticut, after years of painstakingly building up E&T partner operations with community colleges and community-based organizations, currently serves approximately 2,700 clients through the voluntary E&T program at a cost of approximately \$7 million/year. In order to also support the entire ABAWD at-risk population, nearly 10 times more resources would be required. In addition to the nearly \$70 million dollars which would need to be provided by the state legislature or private entities, Connecticut would need a significant period of time to be able to ramp up the program to expand it so vastly from its current state. It is entirely unrealistic to think that there would be any meaningful expansion by April 1, 2020.

24. Connecticut currently administers its SNAP E&T program with two state employees and a limited technology support structure. In order to expand the SNAP E&T program tenfold to serve those individuals at risk of losing benefits due to the new rule, an additional 10-20 staff would be required, at a cost of \$1-2 million annually, as well as costs for system updates and maintenance.

25. To date, FNS has not provided any additional funding to support the job search and job retention efforts that will be required of those individuals who will be subject to the new rule.

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

DATED this January 6, 2020 at Hartford, Connecticut.



DEIDRE S. GIFFORD, MD, MPH
Commissioner