

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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HELEN GEMMELL, and MEA MARTINEZ, individually
and on behalf of all others similarly situated,

NO.: 16 CV _____

Plaintiffs,

v.

MELBA DEPENA AFFIGNE, in her official capacity
as Director of the Rhode Island Department of
Human Services,

Defendant.
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DECLARATION OF GRETCHEN BATH

I, Gretchen Bath, first being duly sworn, subscribe as true under penalty of perjury,
pursuant to 28 U.S.C. 1746, as follows:

BACKGROUND

1. I make this declaration in support of the application for a temporary restraining order, preliminary and permanent injunctive relief, declaratory relief, and class certification in the lawsuit that is being filed against Melba DePena Affigne in her official capacity as Director of the Rhode Island Department of Human Services (DHS) to require Defendant to process SNAP applications and issue benefits to eligible households in a timely manner.

2. I am an attorney employed by Rhode Island Legal Services, Inc. (RILS) in Providence, RI. RILS represents low-income individuals and families in a range of legal matters, including public benefits cases. I have worked at RILS as an attorney for 28 years in the

Public Benefits Unit, in which two paralegals and I work on cases related to governmental benefits programs, including SNAP. Last year our unit closed over 800 public benefits cases, including 162 SNAP cases.

3. As an attorney, I interview people who come to RILS seeking legal assistance to determine the nature of their public benefits problem, negotiate on their behalf with government agencies, and represent clients at administrative hearings and in court, if I am unable to resolve the issues through negotiation.

4. In addition to handling my own caseloads, I supervise two public benefits paralegals in the Providence office and one paralegal in our Newport office who has some clients with public benefits issues.

5. In Rhode Island, the SNAP program is administered by the Department of Human Services of the State of Rhode Island (“DHS”). There are six DHS field offices in the state.

6. In the course of my work, I became familiar with DHS systems, including the former computer system known as InRhodes, which determined eligibility for SNAP and all other DHS programs.

7. The following sets forth background on DHS’s implementation of its new eligibility system (¶¶ 8-15)and my experience working on behalf of clients who have had problems getting SNAP after implementation of the new eligibility system (¶¶ 16-21).

BACKGROUND ON DHS IMPLEMENTATION OF NEW ELIGIBILITY SYSTEM

8. Before September 2016, DHS used a decades-old computer system called InRhodes to determine eligibility for SNAP and other public assistance programs.

9. Rhode Island decided to replace InRhodes with a single integrated electronic eligibility system for all public assistance programs. It also decided to merge the DHS system

with the HealthSource RI computer system (known as HIX), designed to implement the state-run health care exchange under the federal Affordable Care Act. HIX was also used to determine Medicaid eligibility for populations eligible under ACA. This project was called the Unified Health Infrastructure Project (“UHIP”), also referred to as the “RIBridges” release.

10. As part of the transition to RIBridges, DHS was in communication with the United States Department of Agriculture’s Food and Nutrition Service (FNS), which is providing some of the funding for the new system.

11. In the course of my duties at RILS, I have received various documents produced by USDA’s Food and Nutrition Service (FNS) and Defendant Affigne and her agency, DHS, related to Rhode Island’s plans to implement its new computer system. These include the following documents which are attached as Exhibits:

- a. May 31, 2016 letter from FNS to Defendant Affigne Exh. 1.
- b. August 15, 2016 letter from FNS to Defendant Affigne. Exh. 2.
- c. August 26, 2016 letter from FNS to Defendant Affigne. Exh. 3.
- d. August 26, 2016 letter from Defendant Affigne to FNS. Exh. 4.
- e. September 2, 2016 letter from FNS to Defendant Affigne. Exh. 5.
- f. September 8, 2016 letter from Defendant Affigne to FNS Exh. 6.

12. FNS’s September 2, 2016 communication to Defendant (Exh. 5) advised DHS that it was “unable to concur if the State decides to proceed with implementation,” and that it:

“...wishes DHS to know that it proceeds with the deployment of RIBridges at its own risk. Risks include reduced program access, worker backlogs, delayed application processing and untimely benefits, over-issuances and increased payment error rates.”

13. DHS determined that it would have to shut both HIX and InRhodes down for several days in order to merge the two computer systems and implement UHIP. In the summer of 2016 DHS widely alerted the public (and community advocates and helpers) that Inrhodes would be shut down from September 7 through September 12, 2016, and encouraged applicants and recipients to submit necessary documents before September 7. This period was known as the “dark days”. Although SNAP applicants and recipients could send or bring recertification applications and related papers to DHS field offices, DHS staff could not scan them into the system, electronically record receipt, do any inputs, or make any eligibility determinations.

14. Defendants proceeded with statewide implementation of RIBridges on September 13, 2016.

15. In the course of my duties at RILS, I have received various documents produced by USDA’s Food and Nutrition Service (FNS) and Defendant Affigne and her agency, DHS, related to problems, including SNAP application processing delays, since the September 2016 implementation of RIBridges. These include the following which are attached as Exhibits.

- a. September 22, 2016 letter from FNS to Defendant Affigne Exh. 7.
- b. October 14, 2016 letter from Defendant Affigne to FNS attaching data on DHS’s performance through October 3, 2016. Exh. 8.
- c. November 4, 2016, letter from Defendant Affigne to FNS attaching data on DHS’s performance through October 22, 2016. Exh. 9.
- d. November 8, 2016 letter from FNS to Defendant Affigne. Exh. 10.
- e. November 18, 2016 letter from Defendant Affigne to FNS attaching data on DHS’s performance through November 6, 2016. Exh. 11.

f. Rhode Island Department of Human Services Corrective Action Plan in Response to FNS Advance Notice Letter Dated November 8, 2018, submitted November 22, 2016. Exh. 12.

MY EXPERIENCE WORKING WITH SNAP CLIENTS FOLLOWING IMPLEMENTATION OF NEW SYSTEM

16. Until recently, I handled few SNAP cases at the local field office level; a paralegal in our Providence office has generally been responsible for handling SNAP cases at the local SNAP office level. Starting in September 2016, however, our office began receiving such an increased volume of calls from clients with SNAP problems related to the state's new UHIP computer system that I had to assume part of the SNAP caseload. From September 13, when the UHIP system "went live," through November 21, 2016, we opened over 130 new SNAP cases, 83 of which involved clients whose applications (or reapplications) for SNAP had (as of date of intake at our office) not been timely processed; 20 of those 83 cases involved clients who we identified as being eligible for expedited SNAP benefits.

17. In October 2016, the Executive Office of Health and Human Services (EOHHS) General Counsel offered to try to expedite resolution of our office's post-UHIP cases, and invited me to send her the names of cases needing resolution. Beginning October 11, 2016, I started sending her a list of cases needing resolution, most of which involved delayed processing of SNAP applications and recertifications. She initially reported to me by email that she was able to get some of the cases resolved, and later emailed that she would sit down with the escalation team about our cases or refer our cases to the escalation team. I believe that in October I sent her about 45 cases involving delayed processing of SNAP applications or recertifications. By the end of October, most of those applications remained unprocessed, and by early November General Counsel stopped emailing me about the individual client cases I had sent her. I

continued to work on those cases by contacting the field offices and/or requesting agency hearings, as described in paras. 18 and 19.

18. While many of our clients' SNAP applications were eventually processed, after we contacted the DHS supervisor, many of those cases were not processed until weeks after we contacted the DHS field supervisor about them, and all were processed well beyond the applicable SNAP deadline (7 days for expedited, 30 days for non-expedited). In some cases, I was initially told by DHS supervisors that there was no application for my client in the system, only to be told by a DHS supervisor later that the application had been located and could now be processed.

19. When I have been unable to get my client's application processed by contacting the supervisors (or, in some cases, General Counsel), I have filed a request for agency hearing contesting the delay.

20. As of November 30, 2016 I had 10 SNAP cases awaiting hearing. Two were for clients whose SNAP applications were filed in September and were still unprocessed on that date; each client subsequently reapplied for SNAP and had the second application approved. Two involved clients whose applications (one filed in August, one filed in September) remained unprocessed on that date. I was informed by DHS supervisors that there was a computer problem preventing processing, and so they had to escalate those cases to Deloitte. Three cases involved applications which clients report having filed, but DHS supervisors told me that there is no application for them in the system. One client filed in person in August, one in September, and one in October; the latter was, I believe, eligible for expedited SNAP. The remaining cases pending as of November 30th involved clients whose applications were finally processed, but

there was a dispute about the retroactive amount issued. Some of these cases have been resolved by the date of this Declaration.

21. I have learned that there are several steps involved in getting a paper SNAP application processed in the new UHIP system. It must first be scanned into the system. Next, it must be "indexed." Finally, it must be "registered." I understand that scanning can be done by clerks, but that indexing and registering may be actions that can be accomplished only by certain DHS staff. I do not know what systems were implemented, if any, for tracking scanned applications, i.e, for ensuring that a scanned application is indexed, registered, and processed within SNAP deadlines. Until all three of these steps have been taken, an application does not show up in the UHIP system, and no steps are taken to process it or to determine eligibility.

21. As I understand it, DHS field staff are unaware that an application has been received and needs to be processed until it has actually been registered, at which time it shows up in the system as an application that needs to be processed. When asking about my clients' applications, I have sometimes been informed by DHS supervisors that DHS had not received an application, or that there "was no application in the system," despite the fact that the client had been at DHS when his/her application was scanned; had a form from DHS documenting receipt of an application; and/or had retained his/her original application form, which was date-stamped received by DHS. In one case, my client had faxed her reapplication to DHS in August and retained the fax sheet. After we contacted DHS, the worker called the client to ask her to re-fax her application, as DHS could not locate the original; the application was later processed.

DATED:

12/8/16

Gretchen Bath

Gretchen Bath