

Testimony before UHIP Oversight Committee given on 2/8/2018

by ACLU of RI cooperating attorney Lynette Labinger.

Thank you, members of the Oversight Committee, for inviting me to speak to you today about the law suit brought by food stamp applicants challenging the State's failure to comply with federal requirements to process food stamp applications within the time periods established by federal law.

The suit was filed on December 8, 2016 by two applicants on behalf of a class of all others similarly situated. Plaintiffs are represented by me, as a cooperating attorney for the ACLU of RI, and by the National Center for Law and Economic Justice. By way of background, the same people teamed up in 2009 on behalf of food stamp applicants when the State had seriously fallen behind on processing SNAP applications in the times required by federal law. This occurred, we believe, as a result of the 2008 recession and a large increase in applications which the State was having difficulty handling. The parties then, as now, shortly after filing reached a settlement agreement which

called for monthly reporting and set forth a time frame for the State to come into compliance.

The difference this time seems to be that the State's failure to comply with federal standards is the result of a series of self-inflicted wounds that are still preventing compliance. By the time monitoring ended under the last settlement, the State was processing 4000 and 5000 applications each month and achieving steadily improving compliance rates, up to 96% and 98% in the last months of reporting. Plaintiffs never returned to court for further relief.

In the current matter, we did not file right away. After months of reports of systemic failure to timely process applications, including anecdotal reports of paperwork getting lost, we brought suit. At the time we brought suit, the official position of the State was that it would all be corrected by June 2017.

Shortly after we brought suit, and with the assistance of federal Judge Smith, who had presided over the first case, we achieved another settlement with the State, which required monthly reporting, starting with the month of March, and benchmarks for compliance, requiring

steady improvement to the compliance rate of 96%, measured separately for expedited applications—which must be decided within 7 days-- and 96% for non-expedited, which must be decided within 30 days. The State is required to report to us on the previous month's data by the 15th of the following month. Under the Court order, the State committed to achieving 96% compliance no later than the month of August 2017, and the order and review would continue for at least another 12 months following achievement of the 96% rate to ensure that it is maintained. That period has not started yet.

Respectfully, if you have not been receiving copies of these reports, I would urge you to require that they be provided to your committee at the same time that we get them.

Very soon after we started getting the reports, it became clear that the State was not meeting the benchmarks and that there were systemic and intractable process problems that were preventing the State from achieving improvement. We met many times with State representatives to try to understand, identify and discuss ways either to improve performance or to ensure that benefits to households in need were not

being held up because the State was determined to fix the technological and other barriers to timely processing as the highest priority.

It was only after many months of effort to work with the State that we concluded that we needed court oversight. Among the things that prompted us to seek the Court's involvement were the following:

a) the State discovered that its reports were incorrect and that applications that were being received were not being properly logged and therefore not processed;

b) the State failed to give us the monthly reports for the months of August and later for September, citing the unreliability of the data. We did not get the report for August until November and we have never received a report for September;

c) the reported number of applications for July 2017 dropped to less than 1000, whereas past months were 3000 to 4000 each month. This did not seem correct, and the later discovery of thousands of unprocessed applications suggests that it is not correct, but that number has never been adjusted in the State's reporting. In fact, when we finally got the report for August later

this year, it states that only 874 applications were received in the month of August, also an anomaly.

d) for those months that the State was providing compliance data, the State did not achieve any of the interim benchmarks and instead compliance rates rolled backwards to alarming rates in the 50 and 60% range.

As a result, we sought the Court's intervention and the Court has appointed a Special Master to serve as its eyes and ears to achieve compliance.

Since the SM has come on board, the State has made substantial improvement in processing. At the same time, the State remains considerably deficient in the compliance rates mandated by the Court. An expedited rate of 83% for the month of December means that almost one in five of the neediest households is not getting benefits within 7 days as mandated by federal law. And many of those are delayed 30 days and more.

We also continue to receive regular complaints about the process experienced by applicants, including intolerably long wait times at the

DHS offices and on the phone, and of lost documents and claims that individuals did not participate in interviews, when they did.

I am not sure what you want to know about these issues and I hope you will ask me questions.