

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA

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CHRISTOPHER MO., KIMBERLY MO., MICHAEL WR.,  
AND VIRGINIA WR., as next friend of MICHAEL WR.,  
individually and on behalf of others similarly situated,

Plaintiffs,

v.

Case No.:

MIKE CARROLL, in his official  
Capacity as Secretary of Florida's  
Department of Children and Families.

Defendant.

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**CLASS ACTION COMPLAINT**

**Preliminary Statement**

1. Named plaintiffs and the class they seek to represent have lost or face the loss of subsistence benefits critical to their nutritional needs. They are indigent adult recipients of Supplemental Nutrition Assistance Program (“SNAP”)<sup>1</sup> benefits who, since January 1, 2016, have received or will receive notices of termination of their SNAP benefits sent by Defendant and his agency, the Florida Department of Children and Families (“DCF”), as a sanction for failure to comply with SNAP Employment and Training (“E & T”) Program work requirements. These

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<sup>1</sup> SNAP benefits are also commonly known as “food assistance” or “food stamps.”

sanctions, which have affected over 430,000 individuals, have resulted and continue to result from Defendant's flawed implementation of two complex federal SNAP statutes that together: 1) establish an E & T Program which mandates that SNAP recipients participate in the E&T Program and, if recipients fail to comply, DCF imposes a sanction on the recipient which terminates food assistance until the recipient begins to comply; and 2) mandate that individuals whom DCF determines to be "Able-Bodied Adults without Dependents" ("ABAWD") risk being subjected both to E & T sanctions and to the imposition of a three-month time limit on receipt of SNAP benefits, unless they comply with E & T work requirements.

2. On January 1, 2016, DCF implemented the policies described above. However, DCF was not equipped to handle the hundreds of thousands of SNAP recipients DCF categorized as ABAWDS and, as a result of that categorization, who all became potentially subject to the E & T work requirements. As a result, Plaintiffs and hundreds of thousands of members of the proposed class have lost or are threatened with loss of SNAP benefits because DCF continues to improperly sanction them for alleged failure to comply with E & T requirements. The loss of SNAP benefits causes hunger and poses serious risks to Plaintiffs and class members.

3. Defendant's actions violate the federal statutory and constitutional rights of Plaintiffs and the proposed class in three critical ways. *First*, Defendant terminated and is continuing to terminate individuals' SNAP benefits without providing constitutionally adequate pre-termination notice of sanction for failure to comply with E & T work requirements that, for example, would sufficiently allow them to claim exemptions from the work requirements, have the non-compliance excused for good cause, or cure the alleged non-compliance. *Second*, in the process that led to DCF issuing the inadequate sanction notices, Defendant failed and is failing to adopt a fair process to make an individualized determination of each class member's status as subject to E & T work requirements as an ABAWD. *Third*, Defendant failed and is failing to provide Plaintiffs and the class with constitutionally adequate notice, before making mandatory referrals to the E & T program, that individually identifies each Plaintiff as an ABAWD subject to E & T work requirements and potential sanctions for failure to comply, as well as the limitation of SNAP benefits to 3 months in a 36 month period; and specifies the new rules, including how and when to claim an exemption or challenge the Defendant's determination that s/he is non-exempt.

4. As a result of Defendant's actions, Plaintiffs and those similarly situated have been or will be wrongfully terminated from SNAP benefits in violation of 7 U.S.C. § 2020(e) (10) and implementing regulations, 7 U.S.C. §

2015(d) and (o) and implementing regulations, 7 U.S.C. § 2014(a), and their right to adequate notice pursuant to the Due Process Clause of the Fourteenth Amendment to the United States Constitution (“Due Process Clause”).

5. Plaintiffs seek declaratory and permanent injunctive relief to enjoin Defendant from terminating SNAP for Plaintiffs and the proposed class as a sanction for failing to comply with E & T work requirements until Defendant: 1) has a fair and understandable process for making an individualized determination, before referring an individual to the E & T program, of each class member’s status as subject to E & T work requirements as an ABAWD, including whether the individual qualifies for exemption from the E & T work requirements and ABAWD rules; 2) provides adequate notice to the individual of DCF’s determination that the individual is subject to the SNAP E & T work requirements as an ABAWD, including, *inter alia*, notice of the exemptions and how and when to claim an exemption, the consequences of failure to comply with E & T work requirements and of the 3-month ABAWD time limit, and how to challenge DCF’s determination that the individual is subject to E & T work requirements as an ABAWD; 3) provides adequate pre-termination notice of sanction for failure to comply with E & T work requirements; 4) takes corrective action, as required by federal law, to identify and restore SNAP benefits to those improperly sanctioned for failure to comply with E & T work requirements, voids any such sanction, and

voids any counting of months of SNAP receipt toward the ABAWD three-month time limit; and 5) provides ongoing monitoring reports of Defendant's corrective actions to Plaintiffs' counsel.

### **Jurisdiction and Venue**

6. The Court's subject matter jurisdiction over this action is conferred by 28 U.S.C. § 1331.

7. Declaratory relief is authorized by 28 U.S.C. §§ 2201(a) and 2202, and by Rule 57 of the Federal Rules of Civil Procedure. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

8. This action is brought pursuant to 42 U.S.C. § 1983 to redress deprivations of the Plaintiffs' constitutional and federal statutory rights.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this judicial district, the Florida Department of Children and Families has its headquarters and performs its official duties in this judicial district, and a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district.

### **I. Parties**

10. Plaintiff Christopher MO. resides in Jacksonville, Florida.

11. Plaintiff Kimberly MO. resides in Jacksonville, Florida.

12. Plaintiff Michael WR. resides in Jacksonville, Florida.

13. Plaintiff Virginia WR., as next friend for Michael WR., resides in Jacksonville, Florida.

14. Defendant Mike Carroll is the Secretary of the Florida Department of Children and Families and is sued in his official capacity. As Secretary, Defendant Carroll is responsible for the statewide operation and administration of the Florida Food Stamp Program as authorized by the federal Food Stamp Act. *See Fla. Stat. § 414.31.*

## **II. Class Action Allegations**

15. Plaintiffs are SNAP recipients who sue on behalf of themselves and all others similarly situated, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

16. Plaintiffs bring this action on behalf of themselves and on behalf of a proposed class defined as follows:

All SNAP recipients who, since January 1, 2016, have received or will receive a notice from Defendant terminating their SNAP benefits as a sanction for failing to comply with SNAP E & T work requirements.

17. The proposed class is so numerous that joinder is impracticable. Defendant has sent pre-termination sanction notices to more than 430,000 alleged ABAWDs who allegedly failed to comply with E&T requirements. Each of these SNAP recipients received insufficient notice of Defendant's determination of

ABAWD status, and each person was deprived of an individualized determination of ABAWD status.

18. There are questions of law and fact common to the proposed class, including whether Defendant violated the federal Food Stamp Act and the Due Process Clause when Defendant acted to terminate Plaintiffs' SNAP benefits as a sanction for failing to comply with E & T requirements without: 1) providing adequate pre-termination notice; 2) providing adequate notice of an individualized determination of status as subject to E & T work requirements because DCF determined them to be an ABAWD; 3) providing adequate notice of the new E&T requirements; 4) providing adequate notice informing Plaintiffs how they may challenge Defendant's determination of their alleged ABAWD and E & T compliance status; and 5) engaging in a fair and understandable process to make an individualized assessment and determination of each Plaintiff's status as purportedly subject to the E & T work requirements as an ABAWD .

19. Plaintiffs' claims are typical of the claims of the proposed Plaintiff class. Plaintiffs and members of the class are SNAP recipients whom Defendant has determined are subject to the E & T work requirements as an ABAWD and to ABAWD time limits and who have been or will be terminated or threatened with termination of SNAP as a sanction for failure to comply with the E & T work requirements.

20. Plaintiffs will fairly and adequately protect the interests of the proposed Plaintiff class. In supporting their individual claims, Plaintiffs will simultaneously advance the claims of absent class members.

21. Plaintiffs' counsel are experienced in complex class litigation involving public benefit programs and civil rights laws. Counsel have the resources, expertise, and experience to prosecute this action on behalf of the Plaintiffs' class.

22. Plaintiffs' claims satisfy the requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure, in that Defendant has acted on grounds generally applicable to the proposed class, thereby making appropriate final injunctive relief and declaratory relief with respect to the proposed class as a whole.

### **III. Statutory and Regulatory Scheme of the Federal Supplemental Nutrition Assistance Program ("SNAP")**

#### **A. Purpose and Administration of SNAP**

23. In order to "alleviate...hunger and malnutrition," Congress enacted the Food Stamp Program to "permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation." *Id.*; 7 C.F.R. § 271.1.

24. Effective October 1, 2008, the federal Food Stamp Program was renamed the Supplemental Nutrition Assistance Program (SNAP) and the federal



Food Stamp Act was renamed the Food and Nutrition Act of 2008. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, §§ 4001 and 4002, 122 Stat. 1651, 1853-1860 (herein referred to as the “Food Stamp Act”).

25. At the federal level, SNAP is administered by the Food and Nutrition Service (“FNS”) of the U.S. Department of Agriculture (“USDA”).

26. The federal government provides complete funding to the states, including the State of Florida, for all benefits under SNAP, and at least 50% of the states’ administrative costs involved in the operation of the program. 7 U.S.C. §§ 2013(a), 2019, 2025(a); 7 C.F.R. §§ 277.1(b), 277.4.

27. Each state must designate a single state agency responsible for administering SNAP and complying with federal food stamp statutory and regulatory requirements. 7 U.S.C. § 2020(a), (d), and (e); 7 C.F.R. §§ 271.4(a), 277.4. The state agency’s responsibilities include the certification of household eligibility and the issuance of food stamp benefits to those households. 7 U.S.C. § 2020(a) (1), (e).

28. Florida participates in SNAP. DCF is the single state agency responsible for administering Florida’s SNAP program in compliance with the Food Stamp Act and its implementing FNS regulations. Fla. Stat. § 414.31.

**B. General Eligibility Requirements for Receipt of SNAP**

29. To be eligible for SNAP, a household's gross non-excludable income must not exceed 130% of the federal poverty line, and its net income (after specified allowable exclusions and deductions) must be below the federal poverty line.<sup>2</sup> 7 U.S.C. § 2014(c).

30. In addition to meeting the income test in the federal SNAP law, households must meet other eligibility requirements, such as those in 7 U.S.C. § 2015, including the work requirements in subsection (d) and the requirements for ABAWDs in subsection (o).

31. As the single state agency, DCF is responsible for determining the eligibility of the applicant households and certifying their eligibility in accordance with the eligibility rules and procedures set forth in the federal SNAP statutes and implementing regulations. *See generally*, 7 U.S.C. §§ 2014(a); 2020(e) (3), (4), (9), and implementing regulations at 7 C.F.R. Part 273.

32. As part of its responsibility for determining and certifying the eligibility of SNAP households, the State agency is responsible for determining whether or not an individual is subject to or exempt from SNAP E & T work requirements (discussed below at ¶¶ 38-43) and the ABAWD time limit (discussed

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<sup>2</sup> Households with an elderly person or a person with a disability must only meet the net income test. 7 U.S.C. § 2014(c).

below at ¶¶ 44-50), and whether or not an individual subject to E & T work requirements has complied, should be sanctioned for non-compliance or has good cause for non-compliance. 7 U.S.C. § 2015 (d) and (o), and implementing regulations.

33. As the state agency, DCF must certify households as eligible for a specified period of time. 7 U.S.C. § 2020(e) (4); 7 C.F.R. § 273.10(f). Households must then apply to renew their eligibility (also called “recertification”) to receive SNAP for subsequent periods. 7 C.F.R. § 273.14.

34. Eligible households may also be subject to requirements that they file periodic reports about their circumstances (according to the reporting system option chosen by the state) which is known as “simplified reporting.” 7 U.S.C. § 2015(c), 7 C.F.R. § 273.12(A) (5).

35. Federal SNAP statutory law requires that “[a]ssistance under this program shall be furnished to all eligible households who make application for such participation.” 7 U.S.C. § 2014(a).

36. The maximum monthly benefit for a SNAP household of one is \$194.00. <http://www.fns.usda.gov/snap/eligibility>.

**C. SNAP Employment and Training Work Requirements and Able Bodied Adults without Dependents Work Requirements**

**1. SNAP Employment and Training Work Requirements**

37. 7 U.S.C. § 2015(d) requires SNAP-eligible individuals who do not meet specific exemption criteria to: 1) register for employment at application and every twelve months thereafter; and 2) comply with specific work requirements, including the requirement to participate to the extent required by the state agency in an Employment and Training (“E & T”) program established by the state pursuant to subsection (d)(4).

38. DCF must design and implement a SNAP E & T program and its components must generally be delivered by the statewide workforce development system. 7 U.S.C. 2015 § (d) (4).

39. States have significant flexibility in designing their SNAP E & T programs, including the option of operating either a mandatory or a voluntary program. In a mandatory E & T program, individuals determined to be mandatory participants face sanctions for failure to comply with E & T requirements without good cause. These sanctions entail loss of SNAP benefits for specified periods, depending on whether the alleged non-compliance is the first, second, third, or subsequent instance of non-compliance. 7 C.F.R. § 273.7 (f). The minimum disqualification periods are one month for the first violation, three months for the

second violation, and six months for the third and subsequent violations. 7 U.S.C. 2015 § (d) (1) (B) and (C); 7 C.F.R. § 273.7 (f)(2).

40. Pursuant to 7 U.S.C. § 2015(d) and its implementing regulation, 7 C.F.R. § 273.7 (b), individuals are exempt from the SNAP E & T work requirements if they are: 1) under age 16 or over 60; 2) physically or mentally unfit for employment; 3) complying with work requirements of another program under Title IV of the Social Security Act; 4) responsible for care of a child under 6 or an incapacitated person; 5) receiving unemployment compensation; 6) working more than 30 hours a week; 7) participating in a drug or alcohol rehabilitation program; or 6) students enrolled at least half-time.

41. States may make participation in the E & T program mandatory for those individuals whom the state agency has determined to be Able-Bodied Adults without Dependents (“ABAWDs”), subject to specific work requirement for ABAWDs. 7 U.S.C. § 2015 (o).

42. The federal regulation implementing 7 U.S.C. § 2015(d) specifies that the state agency “is responsible for screening each work registrant to determine whether or not it is appropriate, based on the State agency’s criteria, to refer an individual to an E & T program...” 7 C.F.R. § 273.7 (c) (2).

## 2. The ABAWD Work Requirement and Time Limit

43. Unless otherwise exempt, no individual is eligible for SNAP if during the preceding 36-month period, the individual receives SNAP for not less than three months (consecutive or otherwise) during which the individual did not work, as defined in 7 U.S.C. § 2015(o) (2) (A)-(C) or receive benefits pursuant to subsection (o) (3)-(6). 7 U.S.C. § 2015(o) (2); 7 C.F.R. § 273.24. This provision is commonly known as the ABAWD three-month time limit.

44. A state must implement the ABAWD three-month time limit unless the USDA Secretary approves a waiver pursuant to 7 U.S.C. § 2015(o)(4). A waiver may apply to any group of individuals in the state if the Secretary determines that the area in which they reside has an unemployment rate exceeding 10% or does not have enough jobs to provide employment for these individuals. *Id.* § 2015(o)(4)(A).

45. As set forth in the paragraphs below, 7 U.S.C. § 2015(o) and its implementing regulation, 7 C.F.R. § 273.24, define the ABAWD work requirement, applicable exemptions, and good cause for an individual's temporary failure to meet the work requirements.

46. ABAWDs must fulfill the ABAWD work requirement in order to receive SNAP benefits beyond the three-month time limit. The work requirement for ABAWDs is defined as:

- (A) Working 20 or more hours a week, averaged monthly, including working in exchange for goods or services or unpaid work (e.g., volunteer work);
- (B) Participating in and complying with the requirements of a work program, including a State Employment and Training (“E & T”) program under 7 U.S.C. 2015 § (d) (4)<sup>3</sup> for 20 hours or more a week as determined by the state agency; or
- (C) Participating in and complying with the requirements of a workfare program under 7 U.S.C. § 2029 or a comparable program established by the State or political subdivision of the State.

7 U.S.C. § 2015(o) (2) (A) - (C); 7 C.F.R. § 273.24 (a) (1).

47. SNAP recipients are exempt from the ABAWD work requirement if they are:

- (A) Under 18 or over 50 years of age;
- (B) Medically certified as physically or mentally unfit for employment;
- (C) A parent or other member of a household with responsibility for a dependent child;
- (D) Otherwise exempt from general SNAP work requirements under 7 U.S.C. § 2015(d)(2), as implemented by 7 C.F.R. § 273.7(b) (including on the basis that they are complying with the work requirements of another program or receiving unemployment compensation); or
- (E) A pregnant woman.

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<sup>3</sup> A “work program” means “a program under Title I of the Workforce Investment Act of 1998; a program under section 236 of the Trade Act of 1974; and a program of employment and training, other than a job search or job search training program, operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including activities under the State Employment and Training Program under 7 U.S.C. § 2015(d) (4).” 7 U.S.C. § 2015(o)(2)(B) and (o) (1).

7 U.S.C. § 2015(o)(3)(A)-(E); 7 C.F.R. § 273.24(c).

48. Thus, individuals potentially subject to ABAWD work requirements have additional exemptions from the ABAWD work requirement beyond the work exemptions provided under the SNAP E & T program, pursuant to 7 U.S.C. § 2015(d), as described in ¶ 41. These additional exemptions are for those: 1) under age 18 or 50 or over; 2) living in a household with a child under 18; 3) physically or mentally unfit for employment, as defined in 7 C.F.R. § 273.24 (c) (2); or 4) pregnant.

49. The regulation implementing 7 U.S.C. § 2015(o) requires that states provide a good cause exception for ABAWD individuals who cannot comply with the work requirement because of temporary circumstances beyond the individual's control, including but not limited to "illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation." 7 C.F.R. § 273.24 (c).

**2. USDA/ FNS Directive Regarding Implementation of the ABAWD Work Requirements And Time Limits**

50. On November 19, 2015, FNS issued a directive to states entitled *Supplemental Nutrition Assistance Program - ABAWD Time Limit Policy and Program Access*, ("FNS Directive"), available at <http://www.fns.usda.gov/sites/default/files/snap/ABAWD-Time-Limit-Policy-and-Program-Access-Memo-Nov2015.pdf>. The Directive explains, *inter alia*, what the



Food Stamp Act and implementing regulations require of states in implementing the ABAWD requirement.

51. The FNS Directive states that: “[t]o comply with Federal law, States must do more than track ABAWDs. States must also carefully screen for exemption from the time limit and connect ABAWDs to the information and resources necessary to maintain eligibility consistent with Federal requirements . . . . Accurate screening is fundamental to the State’s implementation of the time limit consistent with Federal law.” FNS Directive, 1.

52. The FNS Directive also states that: “State agencies are responsible for assessing an individual’s fitness for work methodically and comprehensively. The certification and recertification interview is critical in identifying fitness for work.” *Id.*, 2.

53. The FNS Directive also summarizes the good cause exceptions for failure to meet the ABAWD work requirement, how individuals can meet the work requirements, and how individuals can regain eligibility after losing it. *Id.* 2.

#### **D. SNAP Notice & Hearing Requirements**

54. When a state agency proposes to reduce or terminate a household’s SNAP benefits, federal law requires the single state agency to provide the household with the opportunity for a fair hearing and continued benefits until the hearing decision is issued. 7 U.S.C. § 2020(e) (10); 7 C.F.R. §§ 273.13 and 273.15.

55. 7 C.F.R. § 273.15(a) specifically requires (with exceptions not relevant to the instant action) that “each State agency shall provide a fair hearing to any household aggrieved by any action of the State agency which affects the participation of the household in the Program.”

56. DCF, as the single state agency, is required to send “timely and adequate advance notice” before taking any action to terminate or reduce a household’s benefits within its certification period. 7 U.S.C. § 2020(e) (10); 7 C.F.R. § 273.13. Furthermore, the agency’s notice of adverse action must contain a statement of the “proposed action... [and] the reason for the proposed action” in “easily understandable language.” 7 C.F.R. § 273.13(a)(2).

57. The regulation implementing the work requirements in 7 U.S.C. § 2015(d) requires that DCF provide the fair hearing rights in 7 C.F.R. § 273.15 to individuals or households to challenge a “denial, reduction, or termination of benefits due to a determination of nonexempt status, or a State agency determination of failure to comply with Food Stamp Program work requirements. Individuals or households may appeal State agency actions such as exemption status, the type of requirement imposed, or State agency refusal to make a finding of good cause if the individual or household believes that a finding of failure to comply has resulted from improper decisions on these matters.” 7 C.F.R. § 273.7(f)(6).

58. The regulation implementing the work requirements in 7 U.S.C. § 2015(d) also requires that when DCF proposes to sanction an individual or household for failure to comply with the work requirement, “[t]he notice of adverse action must contain the particular act of non-compliance committed....Information must also be included on or with the notice describing the action that can be taken to avoid the disqualification before the disqualification period begins.” 7 C.F.R. 273.7(f)(1)(ii).

**E. State Agency Action to Restore SNAP Benefits Lost Because of Agency Error**

59. DCF must take action to restore SNAP benefits that households lose due to state agency error under the circumstances specified in 7 U.S.C. §§ 2023 (b), 2020 (e)(11) and 2020(b) and 7 C.F.R. § 273.17.

**IV. Factual Allegations**

**A. Facts Common to the Class**

**1. Defendant’s January 2016 Implementation of Mandatory E & T Program and ABAWD Rules and Referral of Individuals to DEO for Participation in E & T Program**

60. Due to the economic downturn and resulting loss of jobs during the recent recession, Florida obtained USDA-approved waivers of the federal ABAWD work requirements and time limits from 2009 through 2015. Department of Economic Opportunity, *Supplemental Nutrition Assistance Program, Employment and Training State Plan*, Federal Fiscal Year 2016, at 3, *available at*

[www.floridajobs.org/docs/default-source/office-of-workforce-services/floridasnap\\_et\\_stateplan\\_2016.pdf](http://www.floridajobs.org/docs/default-source/office-of-workforce-services/floridasnap_et_stateplan_2016.pdf).

61. During the 2015 session, the Florida Legislature enacted a law that prohibits DCF from continuing to ask the USDA for a waiver of the ABAWD work requirements and time limits. Fla. Stat. § 414.555.

62. As a result, Defendant imposed ABAWD time limits and work requirements on SNAP recipients statewide effective January 1, 2016.

63. Effective January 1, 2016 Florida also changed its E & T program from a voluntary program to a mandatory program limited to ABAWDs. As a result, in addition to the imposition of three-month time limits, time-limited ABAWDs automatically became mandatory participants in SNAP E & T in Florida.

64. As mandatory E & T participants, time-limited ABAWDs are subject to additional requirements, separate and apart from time limits, which subject them to sanction for non-compliance. These additional SNAP E&T requirements include, but are not limited to, the mandate that they not reduce work hours or quit their job without good cause. 7 C.F.R. § 273.7(a)(i) and (vii); Fla. Admin. Code R. 65A-1.605(2).

65. Florida's E & T program is administered by CareerSource, Inc, which is a non-profit corporation created by the Florida Legislature and housed within the

Department of Economic Opportunity (“DEO”). Fla. Stat. § 445.004(1) – (2).

CareerSource provides employment and workforce services for SNAP E&T participants and assigns time-limited ABAWDS to E&T activities. *Id.* § (5)(b)(9).

66. According to Defendant’s estimates for Fiscal Year 2016, more than 560,000 Florida SNAP recipients were subject to ABAWD time limits and work requirements.

67. DCF programmed its computer system to identify potential ABAWD individuals among existing SNAP recipients, as of December 16, 2015.

Department of Children and Families, *Able Bodied Adults without Dependents (ABAWDS)*, Transmittal No. P-15-12-001 (“DCF ABAWD Policy”) (Dec. 23, 2015). Through this process, DCF purportedly filtered SNAP recipients into separate categories, including but not limited to (1) categories of recipients determined to be subject to time limits and (2) those determined to be exempt from time limits.

68. For persons who apply or who are recertified for SNAP benefits after January 1, 2016, determinations as to whether an ABAWD is subject to time limits are determined by DCF staff, not through a computer screening process. DCF ABAWD Policy at 2.

69. Defendant first issued policies and procedures regarding ABAWD and E & T work requirements on December 23, 2015. DCF ABAWD Policy. The

policy states, at 2, that “[m]andatory ABAWDs in active cases will receive a notice prior to January 1, 2016 that explains the ABAWD work requirements.”

70. On or about December 2015, Defendant mailed generic notices to some SNAP recipients about the *possibility* of ABAWD work requirements and time limits, stating that “certain food assistance recipients will have to meet [ABAWD] work requirements to be able to receive food assistance benefits.”

71. The generic December 2015 notice did not indicate whether DCF had specifically determined the individual receiving the notice to actually be an ABAWD subject to time limits. To the contrary, the notice merely instructed that “*if* you are identified as an ABAWD, you will be referred to participate in the SNAP Employment and Training Program operated by local workforce development areas, (LWDA) also known as CareerSource,” (emphasis added).

72. The generic December 2015 notice described an ABAWD as “an able-bodied adult who is age 18 through 49; physically and mentally able to work; not living and eating with a child under age 18; not pregnant; and not exempt from food assistance general employment program work requirements.” Although it provides a definition for ABAWD, the generic December 2015 notice advised the recipient of the notice to examine the definition to determine whether she could be incorrectly identified as an ABAWD.

73. In fact, the only instruction in Defendant's generic December 2015 notice regarding how recipients should report their circumstances to DCF states that "[i]f you are unable to work or are pregnant" to "report it as a change" in the individual's DCF online "MyACCESS" account. The generic December 2015 notice did not say when an individual should make such a report, nor did the online function give an option for reporting such information. Additionally, DCF gave no alternative options in the notice, other than the non-functioning online system, to report the information. Nor did the notice explain or even note the full range of possible exemptions under federal law, beyond the references to "you are unable to work" or "pregnant."

74. Defendant's generic December 2015 notice also failed to explain that a person can meet the ABAWD work requirement by working 20 hours or more each week in exchange for goods or services, not just for monetary compensation, or via unpaid or volunteer work. The notice stated: "[m]eeting work requirements means working and/or attending a LWDA work program or assigned activity **of 20 hours per week** (averaged to 80 hours per month)" (emphasis in original).

75. Defendant did not provide information to SNAP recipients in an easily understandable manner to help recipients identify how the E & T and ABAWD work requirements and time limits applied to them individually, or whether, how, or when they could seek an exemption or demonstrate compliance.

76. As part of its implementation of the ABAWD requirements, on or about December 2015 Defendant forwarded to DEO the contact information for the SNAP recipients whom DCF determined to be ABAWDs.

77. Defendant forwarded information about SNAP recipients whom it considered to be ABAWDs to DEO so DEO could engage these purported ABAWD recipients in the SNAP E & T program.

78. However, before forwarding the ABAWD contact information to DEO, Defendant failed to: (1) investigate the current status of individual recipients to determine whether they were properly categorized as an ABAWD, including seeking out current, relevant information about each individual's status; (2) provide adequate notice to recipients about their individual status as an ABAWD; (3) provide adequate notice to recipients about possible exemptions, the different methods available to comply with work requirements, and the possibility of demonstrating good cause for temporarily failing to comply with the work requirements; (4) develop and offer effective processes by which individuals could report relevant information to DCF and receive determinations from DCF of their status, including determinations as to whether the recipient was exempt, had good cause for temporary failure to comply with work requirements, or was complying with the work requirements; and (5) inform recipients about a functional process to report relevant information about their status as an ABAWD, including exempt



status, existence of good cause for not meeting a work requirement, and demonstrating compliance with the work requirement.

79. As a consequence of its policies and practices, Defendant has determined hundreds of thousands of SNAP recipients are ABAWDs subject to work requirements without an actual review of their current, individual circumstances to determine whether they were exempt from the ABAWD rule, thus subjecting them to mandatory participation in the E & T program, sanctions for failure to comply, and the three-month ABAWD time limit.

80. Defendant did not send and does not send to each individual whom it determines to be an ABAWD subject to referral to DEO for mandatory participation in the E & T program, an individualized notice before such referral that explains that DCF has assessed the individual and determined that s/he is subject to the ABAWD work rules, the basis for that individualized determination, the consequences of that determination and how the individual can challenge that determination.

**2. DEO Notice to Individuals of Mandatory Participation in E & T Program**

81. Pursuant to Defendant's December 23, 2015 policy, as to active SNAP cases, Career Source receives DCF's referral of individuals and determines the individual's compliance with E & T work requirements.

82. After Defendant notified DEO of the individuals purportedly subject to mandatory E & T requirements as ABAWDS, DEO issued its own generic letter to such recipients. The DEO generic letter states that Defendant referred the recipient to DEO and that, in order to continue receiving SNAP benefits, the recipient must participate in work-related activities for 80 hours each month, without explaining the range of compliant work activities.

83. The DEO generic letter instructs the individual, *inter alia*, to go online to complete the orientation and assessment within 10 days.

84. The DEO generic letter does not contain information that Defendant allegedly used to determine the recipient was an ABAWD.

85. The DEO generic letter does not list any exemptions or exceptions to the ABAWD work requirements.

86. The DEO generic letter does not state whether or how a recipient could submit information to Defendant regarding their status as an ABAWD.

87. The DEO generic letter does not instruct the recipient as to how she could request a hearing with DCF if the recipient was unable to complete the employment and training registration.

**3. Defendant's Notice of Termination as Sanction for Failure to Comply with E & T Requirements**

88. DEO informs Defendant about those individuals whom it claims have not complied with the E & T requirements, so that Defendant can sanction such individuals.

89. For SNAP recipients whom DCF sanctions for not completing E & T work requirements, Defendant sends a form notice which states that they "did not complete the work requirements for the food assistance program" and as a result, their SNAP benefits will end for a specified period.

90. Defendant's form notice also says that the penalty is being applied because "the head of your Food Assistance household, or a household member did not complete a work activity without having a good reason. If you comply before the begin date of the penalty, we will not impose the penalty."

91. Defendant's form notice does not specify the particular act of non-compliance allegedly committed by the individual, including how or when the individual allegedly failed to comply with the work requirements.

92. For individuals alleged to have engaged in a second instance of subsequent non-compliance with E & T work requirements, Defendant's form notice does not indicate when the prior incidents of non-compliance allegedly occurred.

93. Defendant's form notice does not tell the individual specifically what he or she must do to comply before the sanction date.

94. Defendant's form notice does not state why Defendant determined that the recipient is an ABAWD.

95. Defendant's form notice does not refer to any potential exemptions or exceptions from the E & T and ABAWD work requirements.

96. Defendant's form notice says that individuals who can prove a good reason for not complying can telephone the DCF Call Center at a specified number. Defendant's form notice does not further describe the good cause exception, which applies to temporary circumstances out of the individual's control, including, but not limited to "illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation." 7 C.F.R. § 273.24(c).

97. Defendant's form notice does not tell the recipient that s/he can ask for a fair hearing to challenge the termination because s/he claims it is based on Defendant's erroneous determinations regarding the recipient's status as non-exempt, the nature of the E & T work requirement, or the recipient's good cause reasons for not complying. As of September 16, 2016, Defendant had terminated 432,829 ABAWD individuals as a sanction for failing to comply with E & T requirements.

**B. Facts of Individual Named Plaintiffs**

**Plaintiff Christopher MO.**

98. Christopher MO. is 20 years old. He lives in Jacksonville, Florida, with his mother, Kimberly MO.

99. At birth, he was diagnosed with a disability that affects his lung capacity. He has difficulty breathing. He undergoes a regime of medication therapies every day to keep his lungs clear and prevent infection. He takes 30 different pills over the course of a day and must use an inhaler twice a day. He was recently hospitalized in October 2016 for seven days, and had to continue IV antibiotics for an additional three weeks.

100. His disability makes him constantly weak. He is unable to complete many of the daily activities that others his age can do with ease. He is unable to work because of his condition.

101. Christopher MO. was eligible for and received Supplemental Security Income for many years until those benefits were terminated in 2014, at the age of 18. The Social Security Administration (“SSA”) determined that, when he turned 18, he did not meet the adult definition of disability. His mother, Kimberly MO, who is his primary caretaker, helped him file an appeal in September 2016, which is currently pending.

102. Christopher MO. began receiving food assistance as a member of his mother's household in 2009. Over the years, the household recertified for benefits.

103. On January 20, 2016, DCF issued a notice stating that the household's food assistance benefits would decrease from \$266 to \$103 effective February 1, 2016. The notice stated Christopher MO. was no longer eligible because he "did not complete the work requirements for the food assistance program - first non-compliance."

104. The January 20 notice was the first time Christopher MO. learned about work requirements. He did not understand what the work requirements were, what he was supposed to do to comply or that he could be exempt from work rules because of his disability. His mother, as head of household, called DCF about the notice. No one from DCF contacted Christopher MO. to ask about his disability or whether he is able to work.

105. Christopher MO. has not received food assistance since February 2016. The loss of food assistance has been very hard for him. He needs to monitor his nutrition because, if he does not eat a healthy diet, his immune system becomes depressed and he risks becoming very ill. Christopher MO. and his mother are struggling without their food assistance and are mostly eating very cheap food.

**Plaintiff Kimberly MO.**

106. Kimberly MO. is 45-years-old. She lives in Jacksonville, Florida, with her son, Christopher MO.

107. Kimberly MO. works, on average, 100 hours per month as a waitress. She reported her work hours and provided verification of income to DCF on November 23, 2015. Although Kimberly MO. makes very little money at her job, it allows her the time and flexibility to care for her 20-year-old son, Christopher MO., who has a disability and is a member of her food assistance household. She calls in and fills his prescriptions, assists in coordinating and transporting him to doctor's appointments, and stays with him when he is hospitalized.

108. Kimberly MO. began receiving food assistance in 2009. Her household recertified each year for benefits.

109. In January 2016, Kimberly MO. received a letter from CareerSource, the agency DCF charged with implementing its ABAWD work rules, stating that she and Christopher had to participate in the Supplemental Nutrition Assistance Program Employment & Training Program ("E & T" program).

110. Kimberly MO. was confused by the CareerSource letter. She thought it was asking her to complete additional work requirements on top of her existing work obligations. Kimberly MO. knew that she could not work additional hours

because of her current job and her caregiver responsibilities to Christopher. She contacted CareerSource about the letter, but they referred her to DCF.

111. On February 23, 2016, DCF issued a notice stating that effective March 31, 2016, both Kimberly MO. and Christopher MO. were no longer “eligible for th[e] program” because they “did not complete the work requirements for the food assistance program - first non-compliance.”

112. Kimberly MO. contacted the DCF call center listed on the notice about her household’s food assistance. She told the DCF employee with whom she spoke that she did work on average 100 or more hours a month. But the DCF employee erroneously told Kimberly MO. that the hours were insufficient to exempt her from participating in the E & T work requirements.

113. Kimberly MO. also informed the DCF employee during the phone call of the nature of Christopher’s disability and that she is his primary caregiver.

114. The DCF employee did not tell Kimberly MO. about exemptions from work requirement, whether the information that she provided render her and Christopher eligible for exemptions or how she can claim any applicable exemptions.

115. Since April 2016, Kimberly MO. has not received food assistance. The loss of food assistance to her household has been very hard particularly because she must ensure that Christopher has a healthy diet. His immune system



becomes depressed and he risks getting an infection when he does not eat a healthy diet. Kimberly MO. does her best to make sure that her son is fed before she eats.

**Plaintiff Michael WR.**

116. Michael WR. is 38 years old and lives in Jacksonville, Florida with his mother, Virginia WR.

117. He has a mental illness that prevents him from being able to live alone or to work.

118. Michael WR. began receiving Food Assistance in February 2012. The last time he certified was in December 2015, when he was approved for \$194.00 per month.

119. In February 2016, Michael WR. received a notice that stated his Food Assistance would end on March 31, 2016, because he did not complete work requirements. The notice did not provide information about exemptions or what steps Michael WR. could take in order to continue to receive Food Assistance given his illness.

120. Michael WR. reapplied for Food Assistance in November 2016. After being unable to apply on line, he went to the DCF office and completed an application there. At the time he reapplied, he told DCF that he had also applied for SSI because he is disabled, but DCF told him that he was still required to comply with E&T requirements in order to receive Food Assistance.

121. Two days after Michael reapplied in November 2016, he received a notice stating that his application was denied for noncompliance with work requirements.

122. Michael's mother, Virginia WR., is 71 years old and receives SSI. She receives Food Assistance for herself of \$34 per month, which is not enough to pay for food for both herself and Michael, and she and Michael are both suffering due to inadequate food.

## **V. CLAIMS FOR RELIEF**

### **FIRST CLAIM**

123. Defendant's termination of SNAP benefits to Plaintiffs and the class they represent without providing an adequate pre-termination notice violates 7 U.S.C. § 2020(e)(10) and its implementing regulation, 7 C.F.R. § 273.13(a)(2); 7 U.S.C. § 2015 (d) and its implementing regulations 7 C.F.R § 273.7 (f); 7 U.S.C. § 2014 (a); and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

### **SECOND CLAIM**

124. Defendant's failure to provide Plaintiffs and the class they represent with adequate notice that Defendant has individually assessed the individual and made a determination that the individual is subject to the ABAWD requirement; adequate information about the new E & T and ABAWD work requirements and

time limits, including possible specific exemptions and exceptions; and information about how and when the individual can provide Defendant with information about his/her exempt status or challenge the Defendant's determination of the individual's status violates 7 U.S.C. § 2015(o) and its implementing regulation, 7 C.F.R. 273.24; 7 U.S.C. § 2015 (d) and its implementing regulation, 7 C.F.R. 273.7; 7 U.S.C. § 2014(a) and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

### **THIRD CLAIM**

125. Defendant's sanctioning of SNAP benefits of Plaintiffs and the class without having a fair process to make an individual determination of each class member's status as subject to E & T work requirements as an ABAWD, including whether the individual qualifies for exemption from the E & T work requirements and ABAWD rules, to ensure that only those recipients who are properly subject to the E & T work requirements and ABAWD rules have such requirements applied to them violates 7 U.S.C. 2015(o) and its implementing regulation, 7 C.F.R. 273.24 and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Assume jurisdiction of this matter;

- B. Certify this action as a class action pursuant to Fed. R. Civ. P 23(a) and (b)(2) with respect to the proposed class identified herein;
- C. Enter a declaratory judgment, in accordance with 28 U.S.C. 2201 and Fed. R. Civ. P. 57, declaring that the Defendant's
- 1) failure to send adequate pre- termination notices to SNAP recipients subject to sanction and termination for non-compliance with the E & T work requirement violates U.S.C. § 2020(e) (10) and its implementing regulation, 7 C.F.R. § 273.13(a) (2); 7 U.S.C. § 2015(d) and its implementing regulation, 7 C.F.R. 273.7 (f); 7 U.S.C. § 2014(a); and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.
  - 2) failure to provide Plaintiffs and the class they represent with adequate notice that Defendant has individually assessed the individual and determined that individual is subject to the ABAWD requirement and mandatory participation in the E& T program; adequate information about the new E & T and ABAWD work requirements and time limits, including possible specific exemptions and exceptions; and information about how and when the individual can provide Defendant with

information about his/her exempt status or challenge the Defendant's determination of the individual's status violates 7 U.S.C. § 2015(o) and its implementing regulation, 7 C.F.R. 273.24; 7 U.S.C. § 2015(d) and its implementing regulation, 7 C.F.R. 273.7; 7 U.S.C. § 2014(a), and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

- 3) termination of Plaintiffs' SNAP benefits without having a fair process to make an individualized determination of each class member's status as subject to E & T work requirements and ABAWD rules, including whether the individual qualifies for exemption from the E & T work requirements and ABAWD rules, to ensure that only those recipients who are properly subject to E & T requirements and ABAWD rules have such requirements applied to them violates 7 U.S.C. § 2015(o) and its implementing regulation, 7 C.F.R. 273.24; 7 U.S.C. § 2014(a); and the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

- D. Pursuant to 28 U.S.C. § 2202 and Fed. R. Civ. P. 65, to enjoin the Defendant from terminating SNAP for Plaintiffs and the class as a sanction for failing to comply with E & T work requirements until

Defendant 1) has a fair and understandable process for making an individualized determination, before referring an individual to the E & T program, of each class member's status as subject to E & T work requirements as an ABAWD, including whether the individual qualifies for exemption from the E & T work requirements and ABAWD rules; 2) provides an adequate notice to the individual of DCF's determination that the individual is subject to the SNAP E & T work requirements as an ABAWD, including, *inter alia*, notice of the exemptions and how and when to claim an exemption, the consequences of failure to comply with E & T work requirements and of the 3 month ABAWD time limit, and how to challenge DCF's determination that the individual is subject to E & T work requirements as an ABAWD; 3) provides adequate pre-termination notice of sanction for failure to comply with E & T work requirements; 4) takes corrective action, as required by federal law, to identify and restore SNAP benefits to those improperly sanctioned since January 1, 2016 for failure to comply with E & T work requirements, void any such sanction, and void any counting of months of SNAP receipt toward the ABAWD 3 month time limit; and

5) provides ongoing monitoring reports of Defendant's corrective actions to Plaintiffs' counsel.

- E. Award Plaintiffs their costs and reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988.
- F. Order such other relief as the Court may deem just and proper.

Dated: December 15, 2016

Plaintiffs  
by their Attorneys,

/s/ Cindy Huddleston  
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Cindy Huddleston

\*Attorneys from the National Center for Law and Economic Justice appearing provisionally subject to approval of motion for leave to appear *pro hac vice* filed herewith.



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Florida

CHRISTOPHER MO., KIMBERLY MO., MICHAEL WR., AND VIRGINIA WR., as next friend of MICHAEL WR., individually and on behalf of others similarly situated,

Plaintiff(s)

v.

MIKE CARROLL, in his official capacity as Secretary of Florida's Department of Children and Families

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MIKE CARROLL Secretary, Florida Department of Children and Families 1317 Winewood Blvd. Building 1, Room 202 Tallahassee, Florida 32399-0700 Phone: 850-487-1111

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CINDY HUDDLESTON Attorney for Plaintiff Florida Legal Services, Inc. 2425 Torreya Drive Tallahassee, FL 32303 850-385-7900

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

# ClassAction.org

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