

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MARIA FOREST, LARYSA NAZARENKO,
SVITLANA ANTOSHCHENKO, and GLENNICE
SIMON, individually and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

CITY OF NEW YORK, GARY JENKINS, in his
official capacity as Commissioner, New York City
Department of Social Services, and LISA
FITZPATRICK, in her official capacity as
Administrator, New York City Human Resources
Administration,

Defendants.

Civ.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION**

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PRELIMINARY STATEMENT

The New York City Human Resources Administration (“HRA”) is required by law to provide Supplemental Nutrition Assistance Program (“SNAP”) benefits to eligible applicants generally no more than 30 days from the date of application and must determine whether to grant or deny Cash Assistance benefits within 30 days from the date of application. Defendants are responsible for ensuring these obligations are met, but have consistently failed to do so. They have failed in two distinct ways.

First, thousands of households do not receive SNAP and Cash Assistance benefits because HRA is not timely processing their applications or their “recertifications” by which benefits recipients reaffirm their eligibility for benefits. Households that had been receiving benefits discover their benefits have stopped because HRA has failed to process the recertification paperwork required to continue their benefits. Often, the stoppage of benefits occurs with no notice: These households fail to receive benefits on the day they are supposed to be issued and receive no explanation as to why their benefits are missing. These households must wait, for an unspecified amount of time, until HRA gets around to processing their cases and issuing their benefits, if ever. Similarly, those applying for benefits in the first instance are forced to wait until HRA gets around to processing their applications. While they wait, these households receive no substitute benefits to purchase food. Instead, they go without benefits and miss meals until HRA completes the processing on their cases.

Second, thousands of additional households go without SNAP and Cash Assistance benefits to which they are entitled because their applications and recertifications fall through the cracks of Defendant’s broken administrative processing systems: Their applications and recertifications are impeded and blocked altogether by the online processing system; the

documents they submit are lost or ignored; and they cannot reach the agency via its outdated, overwhelmed, central phone line.

Plaintiffs Maria Forest, Larysa Nazarenko, Svitlana Antoshchenko, and Glennice Simon bring this action on behalf of themselves and a proposed class of indigent families and individuals in New York City who have been unlawfully denied the benefits to which they are entitled due to HRA's failure to timely process applications and recertifications, and those kept waiting for a determination of their eligibility. Plaintiffs challenge the policies and practices of Defendants, Gary Jenkins, in his official capacity as Commissioner of the New York City Department of Social Services ("DSS"), Lisa Fitzpatrick, in her official capacity as Administrator for the New York City Human Resources Administration ("HRA"), and the City of New York. Defendants are responsible for the operation and administration of SNAP and Cash Assistance programs for New York City residents, but are violating their obligations under federal law, as set forth below.

Defendants' failures have created an urgent situation for thousands of New Yorkers: low-income households rely on these subsistence-level benefits to keep food on the table and a roof over their heads. Put simply, while HRA drags its feet in processing these applications and recertifications and allows broken application systems to prevent people from applying or recertifying at all, people are going hungry.

Accordingly, Plaintiffs respectfully move this Court for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, compelling Defendants to (1) meet all timelines required by law regarding processing applications and recertifications for SNAP and Cash Assistance benefits, (2) provide benefits to those eligible within the timeframes required by law, (3) immediately process the Named Plaintiffs' applications and recertifications and provide

them with benefits, and (4) process applications and recertifications for, and provide benefits to, SNAP and Cash Assistance recipients who failed to receive benefits as a result of Defendants' failures to comply with their legal obligations. Such relief is necessary to remedy the irreparable harm Plaintiffs continue to suffer as a result of the historic and continuing delays in the administration of these vital programs. By separate motion, Plaintiffs further request that the Court grant a waiver of the Rule 65(c) bond requirement given Plaintiffs' indigent status.

I. BACKGROUND

SNAP and Cash Assistance Statutory and Regulatory Scheme

Congress established the state-administered Supplemental Nutrition Assistance Program ("SNAP") in 1964, to "safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households." Pub. L. No. 88-525, 78 Stat. 703 (codified at 7 U.S.C. § 2011). SNAP benefits (formerly known as food stamps) may be used by the recipients to purchase food at participating retail food stores. 7 U.S.C. § 2013(a).

The federal government provides complete funding to the states for all benefits under SNAP, and at least 50% of the states' administrative costs involved in their operation of the program. 7 U.S.C. §§ 2013(a), 2025(a); 7 C.F.R. §§ 277.1(b), 277.4. New York participates in the SNAP program and HRA is the agency tasked with administering the SNAP program for New York City. N.Y. Soc. Serv. Law § 95(3); New York City, N.Y., Charter § 603.

To be eligible for SNAP, a household's net income must fall below the federal poverty line, currently \$1,133 per month for a single adult, or \$1,920 per month for a family of three.¹ HRA is required to record the date on which it receives the application and must deliver SNAP

¹ <https://otda.ny.gov/policy/gis/2022/22DC088.pdf>.

benefits to eligible applicants as soon as possible, but no later than 30 calendar days after the date of receipt. 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a), (c)(1), (g)(1).

A recipient's entitlement to SNAP benefits does not last forever. HRA must certify applicants for a specified period, known as a "certification period." 7 U.S.C. 2020(e)(4); 7 C.F.R. § 273.10(f). To continue to receive SNAP benefits after the certification period expires, SNAP recipients must be recertified. 7 C.F.R. § 273.14(a). Recipients must apply for recertification either within 15 days of receiving notice or by the 15th day of the last month of their certification period, depending on the nature of their existing benefits. 7 C.F.R. § 273.14(c). To avoid interruption in the receipt of benefits, the administering agency must provide SNAP benefits to each eligible recipient who timely seeks recertification no later than one month after the recipient received their last allotment issued during the prior certification period. 7 U.S.C. § 2020(e)(4).

New York has established two further programs relevant to this lawsuit. The first, Family Assistance, provides money to families with a child under 18 and to pregnant women. N.Y. Soc. Serv. Law § 349. The second, Safety Net Assistance, provides money to childless adults and others not eligible for Family Assistance. N.Y. Soc. Serv. Law § 158. These two programs are collectively referred to as "Cash Assistance" programs.

Applications for Cash Assistance must be acted on promptly and without delay. 18 N.Y.C.R.R. §§ 350.3(b), 351.1(c)(1). As with SNAP, the local Department of Social Services must accept or deny the Cash Assistance application within 30 days from the date of application. 18 N.Y.C.R.R. § 351.8(b). In addition, the Department must furnish an applicant with Cash Assistance benefits beginning with the date the applicant has established eligibility, or on the

30th day after the date of the application, whichever is earlier. 18 N.Y.C.R.R. § 351.8(c)(2).²

These requirements supplement the general duty New York law imposes on the state and its agencies to adequately provide for those individuals and families who lack sufficient funds to support themselves. N.Y. Soc. Serv. Law §§ 131(1), (3).

As with SNAP benefits, the social services district administering Cash Assistance programs must recertify Cash Assistance applicants at specified intervals. New York law provides that the administrators of the Cash Assistance programs must (1) provide the recipient who wishes to continue to receive Cash Assistance an opportunity to complete the state-prescribed recertification form; (2) interview the recipient in a face-to-face interview or by telephone or other digital means at the request of the recipient; (3) determine the need for additional information from the recipient and/or collateral sources, to establish continued eligibility. 18 N.Y.C.R.R. § 351.20.³

A. The Plaintiffs

The Named Plaintiffs seek to represent the class of all New York City residents who, since March 19, 2020, applied or recertified, attempted to apply or recertify, are applying or recertifying, or will apply for or recertify for SNAP and/or Cash Assistance benefits; and for whom HRA has not or will not timely process such applications or recertifications, or who have been or will be unable to complete their applications or recertifications due to HRA's systems,

² Prior to October 1, 2022, New York Department of Social Services regulations required only that Family Assistance disbursements be made within 30 days from the date of application, with Safety Net Assistance disbursements to be made within 45 days.

³ Joint Cash Assistance and SNAP cases are processed for application and recertification together, with submission of the form initiating the interview and verification requirements for both benefits. *See* Compl. ¶¶ 100-01, 105-06.

policies, practices, and procedures. Plaintiffs have applied or will apply for SNAP and/or Cash Assistance benefits because they have little or no money for food and other basic necessities.

Plaintiff Maria Forest is a 71-year-old disabled former home attendant who lives alone in Brooklyn, New York. *See* Decl. of Maria Forest at ¶¶ 1-2 (attached as Ex. A). She started receiving SNAP benefits several years ago and received these benefits through September 2022. *Id.* at ¶ 8. In October 2022, Ms. Forest's SNAP benefits were discontinued without notice despite the fact that she timely submitted her recertification form. *Id.* Ms. Forest's monthly income consists of approximately \$1,050. *Id.* at ¶¶ 5-6. Her rent is approximately \$605 per month. *Id.* at ¶ 7. Since her SNAP benefits ceased in October 2022, she has been forced to spend money she usually uses for rent and utilities to buy food. *Id.* at ¶ 9. As a result, she currently owes back rent and has utility arrears because she has had to redistribute her income to buy food to survive. *Id.*

Ms. Forest has diabetes and is required to adhere to a strict diet to enable her to control her medical condition. *Id.* at ¶ 10. Since her SNAP was discontinued, she has had to change her diet to eat fewer, different, and less expensive foods. *Id.* In addition, Ms. Forest's mobility is limited due to a spinal condition from an injury on the job before she retired. *Id.* at ¶ 12-13. She uses a walker to get around inside her apartment and a wheelchair for stability when seated. *Id.* After receiving SNAP benefits in September 2022, Ms. Forest received a notice stating that she would receive \$281.00 for the month of October 2022. *Id.* at ¶ 22. However, Ms. Forest never received SNAP benefits in October 2022. *Id.* at ¶ 24.

Plaintiff Larysa Nazarenko is 62 years old. *See* Decl. of Larysa Nazarenko at ¶¶ 1-2 (attached as Ex. B). Ms. Nazarenko fled the war in Ukraine and was paroled into the United States on August 19, 2022. *Id.* at ¶ 5. She is presently unemployed and currently receives \$281 per month in SNAP and \$95 in a SNAP Emergency Allotment. *Id.* at ¶ 11. SNAP benefits are her

only source of income. *Id.* Ms. Nazarenko is from Kiev and had to evacuate Ukraine quickly. *Id.* at ¶ 9. She had recently retired and was getting ready to apply for her pension before fleeing. *Id.* at ¶ 9. She depleted her savings and has no money in her bank account and no way to meet her basic needs. *Id.* at ¶ 10.

Ms. Nazarenko desperately needs additional assistance to live. *Id.* On September 15, 2022, she applied for Cash Assistance benefits but never received a determination on that application. *Id.* at ¶ 12. She again applied for Cash Assistance on December 4, 2022, however HRA has not made a determination on that application either. *Id.* at ¶¶ 12-14. The lack of Cash Assistance has had a dramatic impact on Ms. Nazarenko.

Presently, Ms. Nazarenko has no information about the status of her September 15, 2022, application, and never received a determination from HRA. *Id.* at ¶ 15. She has checked the status of her December 4, 2022, application with the assistance of her social worker repeatedly, and as of January 25, 2023, her application is still pending. *Id.* She is still without Cash Assistance benefits. *Id.*

Plaintiff Svitlana Antoshchenko is a 66-year-old woman living in Brooklyn, New York. *See Decl. of Svitlana Antoshchenko at ¶¶ 1-3 (attached as Ex. C).* She is a Ukrainian citizen and only speaks Ukrainian and Russian. *Id.* at ¶ 4. Ms. Antoshchenko came to the United States on a temporary visa on December 6, 2021 and was planning to return to Ukraine. *Id.* at ¶ 5. However, while in the United States, Ukraine was invaded, and she was not able to return to her home country. *Id.* She was granted Temporary Protected Status on October 6, 2022. *Id.*

Ms. Antoshchenko is currently unemployed and does not have any source of income. *Id.* at ¶¶ 6, 10. She is presently living with roommates and has depleted her savings, leaving her with no way to meet her basic needs. *Id.* On October 24, 2022, Ms. Antoshchenko applied for Cash

Assistance in person at the Coney Island Job Center. *Id.* at ¶¶ 7, 11. She received confirmation on ACCESS HRA that her application was successfully submitted. *Id.* She submitted all supporting documents during the October 24, 2022 visit and participated in her eligibility interview. *Id.* at ¶11 However, as of today, HRA has still not made a determination on her Cash Assistance application. *Id.* at ¶¶ 15-16. Ms. Antoshchenko is still earnestly waiting to receive information regarding her application. *Id.*

Plaintiff Glennice Simon is a 55-year-old woman living in Brooklyn, New York with her adult son. *See* Decl. of Glennice Simon at ¶¶ 1-3 (attached as Ex. D). Ms. Simon has several disabilities, including back spasms and spinal stenosis, and emphysema. *Id.* at ¶ 5. Due to her disabilities, Ms. Simon receives \$914 monthly from Supplemental Security Income (“SSI”). *Id.* at ¶ 4. In addition to SSI, Ms. Simon used to receive SNAP benefits and her adult son received Cash Assistance benefits. *Id.* at ¶¶ 7, 19.

For the month of October 2022, Ms. Simon received \$516 in SNAP benefits. *Id.* However, to her surprise, her SNAP benefits suddenly stopped without any notice in November 2022. *Id.* She called the number on her Electronic Benefits card to find out why her benefits had stopped and she was told that her case was due for recertification. *Id.* at ¶ 8. Ms. Simon never received any paperwork or communication prior to this time from HRA informing her that her case was due for recertification. *Id.*

Finally, on December 7, 2022, Ms. Simon and her son received a letter from HRA stating that they did not complete recertification or complete the required interview. *Id.* at ¶ 11-12. In her attempt to restore her benefits and recertify, Ms. Simon continually reached out to HRA through phone numbers listed on the notice. *Id.* at ¶ 14. She called four different phone numbers numerous times and left voicemails, but was never able to reach a representative at HRA. *Id.* at ¶

14-15. Ms. Simon’s household stopped receiving Cash Assistance benefits after December. *Id.* at ¶ 19. Consequently, Ms. Simon is forced to use her disability benefit funds to pay for everything in her household plus groceries. *Id.* at ¶ 24. This has made it considerably more difficult for her to manage her disabilities and eat food each month. *Id.* at ¶ 25. As of now, Ms. Simon’s household remains without Cash Assistance or SNAP benefits *Id.* at ¶ 7, 19.

B. Defendants

Defendant Gary Jenkins is the Commissioner of the New York City Department of Social Services, in which the New York City Human Resources Administration (“HRA”) is located. HRA is the agency which administers the SNAP and Cash Assistance programs for New York City residents. He is sued in his official capacity.

Defendant Lisa Fitzpatrick is the Administrator of the New York City Human Resources Administration. She is sued in her official capacity.

Defendant City of New York, through the Department of Social Services and the HRA, administers the SNAP and Cash Assistance programs for New York City Residents.

C. Defendants Fail to Process Applications and Recertifications and Provide SNAP and Cash Assistance Benefits in a Timely Manner to Eligible Applicants

HRA has failed to timely process the SNAP and Cash Assistance applications and recertifications of thousands of individuals, resulting in Plaintiffs suffering delays in the receipt of their benefits.

According to HRA’s own data, HRA has failed to timely process applications for crucially needed SNAP and/or Cash Assistance benefits in New York City, including as follows:

- As of December 2022, over 28,000 Cash Assistance/SNAP applications and recertifications were overdue and of these, 5,711 applications were overdue dating

back to September 2022. *See* Decl. of Kathleen Kelleher at Ex. A (attached as Ex. E).

- For the City fiscal year 2022, SNAP Application Timeliness—defined as application processing completed by the agency in the federally required 30-day timeframe—was only 60.1%. Dynamic Mayor’s Management Report, New York City Mayor’s Office of Operations available at <https://dmmr.nyc.gov/city-services/health-and-human-services/human-resources-administration/4116>. (“Mayor’s Management Report”).
- In July 2022, the SNAP Application Timeliness rate was only 51.2%, and in August 2022, the SNAP Application Timeliness rate was only 49%. Mayor’s Management Report.
- In July 2022, the application timeliness rate for Cash Assistance was only 73.4%, and in August 2022, HRA failed to timely process over one-third of Cash Assistance applications, reporting a timeliness rate of 65.4%. Mayor’s Management Report.

HRA’s compliance with mandated processing timeframes is near its historic low. In all, HRA has failed to timely process nearly 40% of SNAP applications and over 20% of Cash Assistance applications in FY2022. By comparison, HRA failed to timely process fewer than 9% of SNAP applications and fewer than 5% of Cash Assistance applications in FY2021. Year-over-year, HRA’s application processing timeliness has consistently declined.

II. LEGAL STANDARD

Plaintiffs, and all others similarly situated, meet the Second Circuit standard for granting preliminary relief. A party seeking a preliminary injunction “must establish that he is likely to

succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008); *Citigroup Glob. Markets, Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 34 (2d Cir. 2010). Where “the injunction sought is mandatory, rather than prohibitory, such that it will alter, rather than preserve, the status quo, the party seeking the injunction must make a ‘clear’ or ‘substantial’ showing of a likelihood of success,” *M.K.B. v. Eggleston*, 445 F. Supp. 2d 400, 426 (S.D.N.Y. 2006) (quoting *Jolly v. Coughlin*, 76 F.3d 468, 473 (2d Cir. 1996) (citation omitted)), or demonstrate that “extreme or very serious damage will result from a denial of preliminary relief.” *Tom Doherty Assocs. v. Saban Entm’t, Inc.*, 60 F.3d 27, 34 (2d Cir. 1995). Both are true here. Plaintiffs satisfy the standard required for a preliminary injunction and their motion should be granted.

III. ARGUMENT

A. Defendants’ Ongoing and Persistent Failure to Provide SNAP and Cash Assistance Benefits in a Timely Manner Irreparably Harms Plaintiffs

Without timely access to SNAP and Cash Assistance benefits, Plaintiffs and members of the proposed Class will continue to endure irreparable harm, “the single most important prerequisite for the issuance of a preliminary injunction.” *Bionpharma Inc. v. CoreRx, Inc.*, 582 F. Supp. 3d 167, 175 (S.D.N.Y. 2022) (quoting *Reuters Ltd. v. United Press Int’l, Inc.*, 903 F.2d 904, 907 (2d Cir. 1990)). To establish irreparable harm, Plaintiffs must demonstrate “an injury that is neither remote nor speculative, but actual and imminent,” *Tucker Anthony Realty Corp v. Schlesinger*, 888 F.2d 969, 975 (2d Cir. 1989) (citations and internal quotation marks omitted), and that “cannot be remedied by an award of monetary damages.” *Shapiro v. Cadman Towers, Inc.*, 51 F.3d 328, 332 (2d Cir. 1995) (citing *Tucker Anthony Realty Corp.*, 888 F.2d at 975).

Here, preliminary injunctive relief is necessary because the harm faced by Plaintiffs—being deprived of subsistence level benefits—is not only imminent, but ongoing. Denying or delaying access to public benefits “may deprive an eligible recipient of the very means by which to live while he waits.” *Goldberg v. Kelly*, 397 U.S. 254, 264 (1970). In *Briggs v. Bremby*, for instance, where the plaintiffs claimed that the State of Connecticut failed to provide food stamps within the federally mandated time frame, the court granted a preliminary injunction, finding that “[t]he denial of essential public benefits like food stamps which help provide for basic nutrition and sustenance undeniably constitutes irreparable harm.” 12-cv-324 (VLB), 2012 WL 6026167, at *18 (D. Conn. Dec. 4, 2012). Similarly, in *Reynolds v. Giuliani*, 35 F. Supp. 2d 331, 339 (S.D.N.Y. 1999), where the plaintiffs also challenged unjustified denials and delays in providing food stamps, the court granted preliminary relief, holding that “to indigent persons, the loss of even a portion of subsistence benefits constitutes irreparable injury.” *Id.* (citing *Morel v. Giuliani*, 927 F. Supp. 622, 635 (S.D.N.Y.1995)); *see also M.K.B.*, 445 F. Supp. 2d at 437 (“Given the often perilous economic circumstances of the plaintiffs” the denial of public benefits including food stamps “unquestionably constitutes irreparable harm.”); *Brown v. Giuliani*, 158 F.R.D. 251, 264–65 (S.D.N.Y. 1994) (“[P]laintiffs vividly portray the irreparable consequences to them and their families and infant children when welfare moneys are not forthcoming in a timely fashion: going without food and clothing, lack of medicine for sick family members”).

Similarly in this case, Plaintiffs are being denied timely access to SNAP and Cash Assistance benefits. These ongoing violations create a dire need. Absent relief from this Court, this harm will continue unabated for thousands of indigent individuals in New York.

B. Plaintiffs Are Likely to Succeed on the Merits

Defendants have a duty to comply with the federal and state mandates to provide applicants for benefits the opportunity to apply and recertify, and to timely process those applications and recertifications. Defendants have failed to live up to their obligations. Plaintiffs are therefore likely to succeed on the merits.

i. Defendants' duty to timely process applications and recertifications

The State “is free not to participate in the ‘scheme of cooperative federalism’ established under the Food Stamp . . . Act[], but if it decides to join, ‘it must comply with federal requirements’” of the Act, as a condition of the continued receipt of federal funding. *Reynolds v. Giuliani*, 506 F.3d 183, 201–02 (2d Cir. 2007) (quoting *Rothstein v. Wyman*, 467 F.2d 226, 232 (2d Cir. 1972)). States choosing to participate in SNAP “do so under an agreement to operate the Program within their state in accordance with applicable federal laws and regulations and in accordance with their own state’s Food Stamp Plan.” *Robertson v. Jackson*, 766 F. Supp. 470, 471 (E.D. Va. 1991), *aff’d*, 972 F.2d 529 (4th Cir. 1992).

Federal law provides that HRA must provide SNAP benefits to eligible applicants as soon as possible but no later than 30 calendar days after the date of application. 7 U.S.C. § 2020(e)(3); 7 C.F.R. §§ 273.2(a), (g)(1). It further provides that expedited SNAP benefits must be provided to destitute individuals and households in immediate need of assistance, no later than the seven days following the date of application. 7 U.S.C. § 2020(e)(9)(A); 7 C.F.R. § 273.2(i)(3)(i). Federal law also requires that HRA must recertify eligible households so they receive uninterrupted SNAP benefits, provided the household completes the recertification process within 15 days of the last month of the current certification period. 7 U.S.C. § 2020(e)(4); 7 C.F.R. §§ 273.14(c)(2), (d).

Similarly, New York state regulations mandate that HRA must accept or deny Cash Assistance applications within 30 days from the date of application. HRA must also furnish an applicant with Cash Assistance benefits beginning with the date the applicant has established eligibility, or on the 30th day after the date of application, whichever is earlier. 18 N.Y.C.R.R. § 351.8(c)(2).

ii. Defendants' failure to abide by their duty

Defendants regularly and consistently fail to meet their obligations to process SNAP and Cash Assistance applications and recertifications within the specified deadlines. For example, as of December 28, 2022, over 28,000 households seeking both Cash Assistance and SNAP were still waiting for HRA to process their applications or recertifications, of these, 5,711 applications were overdue dating back to September 2022. *See* Kelleher Decl. Exhibit A; *supra* Part I.C. As a result of Defendants' failures, thousands of New York City households entitled to SNAP and/or Cash Assistance benefits have not received the benefits or assistance to which they are due.

iii. Plaintiffs' likelihood of succeeding on the merits

Private plaintiffs may seek injunctive relief to enforce the SNAP time limits pursuant to 42 U.S.C. § 1983. *See Briggs v. Bremby*, 792 F.3d 239, 245–46 (2d Cir. 2015) (holding “the time limits for allocating food stamps . . . are privately enforceable through lawsuits brought under § 1983”); *see also Gonzaga University v. Doe*, 536 U.S. 273 (2002); *Williston v. Eggleston*, 379 F. Supp. 2d 561, 578 (S.D.N.Y. 2005) (finding that the federal food stamp regulations at issue “define enforceable statutory rights that are themselves enforceable rights through § 1983”).

Similarly, private plaintiffs may seek injunctive relief to enforce state regulations governing the timely provision of Cash Assistance. *Reynolds v. Giuliani*, No. 98 CIV.8877(WHP), 2005 WL 342106, at *19 (S.D.N.Y. Feb. 14, 2005) (finding plaintiffs had a

private right of action to enforce State regulations governing the timely provision of food stamps). *See also Morel*, 927 F. Supp. 622, *amended*, No. 94 CIV. 4415(JFK), 1996 WL 627730 (S.D.N.Y. Mar. 15, 1996) (enforcing state regulations on continued aid pending administrative hearings).

Plaintiffs have property rights in both SNAP and Cash Assistance benefits because both federal law (for SNAP) and state law (for Cash Assistance benefits) define highly specific criteria for eligibility, thus giving plaintiffs a “legitimate claim of entitlement.” *Story v. Green*, 978 F.2d 60, 62 (2d Cir. 1992) (quoting *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972)); *see also id.* at 62-63 (“[p]ublic benefits such as food stamps and welfare have been deemed a form of property” (citing *Goldberg v. Kelly*, 397 U.S. at 261–62 (welfare))); *Atkins v. Parker*, 472 U.S. 115, 128 (1985) (food stamps). The deprivation of plaintiffs’ benefits without a hearing is a violation of their right to due process. *Goldberg*, 397 U.S. at 261.

Courts have enjoined SNAP application processing timeliness violations, ordering state agencies to comply with federal mandates. *See, e.g., Reynolds*, 35 F. Supp. 2d at 345, 347 (finding that “applicants with emergency needs are not being provided with expedited food stamps within the seven-day period imposed by federal law,” and ordering New York City defendants “to process all applications for expedited food stamps . . . within the time frames required by law”); *Briggs v. Bremby*, 2012 WL 6026167, at *1 (D. Conn. Dec. 4, 2012) (issuing injunction directing Connecticut Department of Social Services to “provide food stamps on a timely basis” consistent with federal law), *amended on reconsideration*, 2014 WL 1246696 (D. Conn. Mar. 24, 2014), and *aff’d*, 792 F.3d 239 (2d Cir. 2015); *see also Booth v. McManaman*, 830 F. Supp. 2d 1037, 1045 (D. Haw. 2011) (issuing preliminary injunctive relief mandating the

state agency “to process food stamp applications and issue benefits to eligible households within federally mandated time frames.”).

Plaintiffs therefore have a likelihood of success on their claims that they are entitled to the prompt processing of their applications for both SNAP and Cash Assistance benefits.

C. The Balance of Equities and Public Interest Support a Preliminary Injunction

Where, as here, the government is a party to the suit, the balance of hardships and public interest merge as one factor. *New York v. U.S. Dep’t of Homeland Sec.*, 969 F.3d 42, 58–59 (2d Cir. 2020); *see also Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019) (“[B]ecause the Government is a party, and ‘the Government’s interest is the public interest,’” the two factors merge.). Here, the Plaintiffs are seeking timely delivery of essential benefits, and they are seeking an order the requires Defendants to obey the law. These requests are decidedly in the public interest. There is no public interest in the perpetuation of unlawful agency action: To the contrary, there is substantial public interest in agency compliance with federal law.

The district court, when granting preliminary relief in *Briggs*, 2012 WL 6026167, at *19, held that “considering the Plaintiffs’ vital and essential interest in the timely receipt of food stamps and the resultant harm suffered through the loss of timely benefits, the balance of hardships tips decidedly in favor of the Plaintiffs and outweighs any injury caused by requiring the Defendant to do what was already required under the Act.” Recently, in *Islam v. Cuomo*, 475 F. Supp. 3d 144 (E.D.N.Y. 2020), the court enjoined the New York Department of Labor to issue unemployment benefits in a timely manner. The court explained that:

[u]nquestionably, “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” Indeed, Defendants have no cognizable interest in failing to pay benefits to FHV claimants when due. Defendants’ only argument

advanced on this point is that the current economic climate it would be imprudent to dedicate resources to providing preliminary relief requested by Plaintiffs. To the contrary, it is precisely because of the current economic climate that such immediate relief is demanded.

Id. at 160 (citation omitted); *see also Haskins v. Stanton*, 794 F.2d 1273, 1277 (7th Cir. 1986) (“because the defendants are required to comply with the Food Stamp Act under the terms of the Act, we do not see how enforcing compliance imposes any burden on them.”)

Thus, because courts have found that granting injunctive relief does not impose a burden on Defendants in the context of SNAP and Cash Assistance benefits, and injunctive relief will serve the public interest element that is embodied in SNAP itself, the balance of the equities strongly supports an injunction.

CONCLUSION

Defendants’ failure to timely process SNAP and Cash Assistance applications and recertification applications irreparably harms the Plaintiffs and putative class members. Plaintiffs have demonstrated a substantial likelihood of prevailing on the merits of their claims, and issuance of preliminary injunctive relief would be in the public interest. Based on the foregoing, Plaintiffs respectfully request that the Court grant their motion for preliminary injunctive relief.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court preliminarily enjoin and direct Defendants to comply with their obligations under the SNAP Act and New York Social Services Law, and implementing regulations, as well as the United States Constitution, including without limitation by ordering Defendants:

- a. To meet all timelines required by law regarding processing applications and recertifications for SNAP and Cash Assistance benefits, and to provide benefits to those eligible within the timeframes required by law;
- b. To establish and maintain reliable and functional application and recertification application processes for SNAP and Cash Assistance benefits;
- c. To establish and maintain reliable and accessible processes through which households may timely complete their required eligibility interviews;
- d. To establish and maintain functional SNAP and Cash Assistance verification procedures and processes and assist households in securing required verification;
- e. To immediately process applications and/or recertifications for, and provide all benefits to Named Plaintiffs Maria Forest, Larysa Nazarenko, Svitlana Antoshchenko, and Glennice Simon;
- f. To identify, process applications and recertifications for, and provide retroactive benefits to all other SNAP and Cash Assistance recipients who failed to receive benefits as a result of Defendants' failures to comply with their legal obligations; and
- g. To provide all notices to households as required by law.

Dated: January 27, 2023
New York, New York

Respectfully submitted,

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Attorneys for Plaintiffs

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA FOREST, LARYSA NAZARENKO,
SVITLANA ANTOSHCHENKO, and GLENNICE
SIMON, individually and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

CITY OF NEW YORK, GARY JENKINS, in his
official capacity as Commissioner, New York City
Department of Social Services, and LISA
FITZPATRICK, in her official capacity as
Administrator, New York City Human Resources
Administration,

Defendants.

Civ.

DECLARATION OF MARIA FOREST

I, MARIA FOREST, declare that the following is true and correct to the best of my knowledge:

1. My name is Maria Forest. I am a Plaintiff in this action.
2. I live in Brooklyn, New York. I live alone.
3. I am 71 years of age.
4. I am retired. I am a former home care attendant.
5. During 2022, I received Social Security Retirement (“SSR”) benefits in the amount of approximately \$629 monthly and Supplemental Security Income (“SSI”) in the amount of approximately \$319 monthly. I also receive New York State Supplement Program (“SSP”) benefits for SSI recipients in the amount of \$87 monthly. Sometime around April

2022, I began to receive approximately \$53 monthly in a pension benefit from my union, 1199.

6. This month, January 2023, I have received or will receive cost of living allowance increases in my SSR and SSI income. In 2023, my monthly SSR benefit will be approximately \$683, and my monthly SSI benefit will be approximately \$251. I expect to receive the same ongoing SSP and union pension benefit monthly.
7. My current rent is approximately \$605 monthly.
8. I started receiving Supplemental Nutrition Assistance Program (“SNAP”) benefits several years ago and received these benefits through September 2022. In October 2022, my SNAP benefits were cut off without notice.
9. I have no additional income. Since my SNAP benefits were cut off in October 2022, I have spent income I usually use for rent and utilities to buy food. I currently owe utility and rent arrears because I have had to redistribute my income to buy food to survive.
10. I have diabetes and normally adhere to a diet that allows me to control this condition as much as possible. Since my SNAP was discontinued, I have had to change my diet to eat fewer and different foods, and less expensive foods. This means that my blood sugar gets too high and too low and I often feel unwell. When my blood sugar is low and I get very lethargic, I fear that it is dangerous and that I may fall asleep and never wake up.
11. Occasionally, my two adult children, who live outside of the City, have come to my apartment to provide meals to me. I need to eat these meals when they provide them because I do not have other food. But these meals also do not allow me the independence to control for my diabetes, and I often feel unwell.

12. My mobility is limited. Inside of my apartment, I use a walker to get around and a wheelchair for stability when I am seated.
13. I am currently awaiting surgery on my spine. I have a spinal condition from an injury on the job before I retired. That injury, combined with my age and experience, limits my mobility and requires the use of my walker in my apartment.
14. My spinal condition causes me a lot of pain. I have a lot of medication that is covered by my health insurance, but I also usually use over-the-counter pain medication for this condition. Since my SNAP was discontinued, I have often had to choose between buying this pain medication for pain relief and buying food.
15. I have a home attendant for almost 8 hours a day, seven days a week.
16. I speak, read, and write in Polish. I have limited spoken fluency and literacy in English and Russian.
17. I have not left the house for anything but medical appointments in approximately three years. A few years ago, it became very difficult for me to navigate outside without losing my balance and falling. My home attendant runs all neighborhood errands for me.
18. I do not have a working computer at home right now. I do not have a “smart” or “data” phone and am not able to use any online application or recertification systems at this time.

RECERTIFICATION

19. During the summer of 2022, I received a recertification request from the SNAP program. The request included the SNAP recertification form and an envelope to use to return the recertification form and additional documents. In or around August 2022, I submitted my

SNAP recertification form in the envelope provided with the request, along with a copy of my lease for proof of rental expense, via regular mail.

20. My home attendant mailed the form and the copy of the lease using a mailbox near my apartment. I regularly rely on my home attendant to mail things for me. I have never had a problem with my home attendant mailing things for me.
21. In September 2022, I received my September SNAP benefits. I received \$281 on or around September 8, 2022, and I received \$95 on or around September 23, 2022.
22. After I recertified and I received my September 2022 SNAP issuances, I received a notice from SNAP Center 15, located at 243 Schermerhorn Street, dated September 27, 2022. The notice was entitled “Notice of Decision on your Supplemental Nutrition Assistance” and said, “You will continue to get the SAME AMOUNT of NYSNIP SNAP benefits: \$281.00.” The notice said that I would “get \$281.00 for the month of October, 2022.”
23. Because I sent in my form and received this notice, I thought my recertification was processed and expected my benefits in October 2022.
24. However, I have not received any SNAP benefits since September 2022. I did not receive any other notices from the SNAP program about my SNAP benefits.
25. I called the SNAP program at the numbers on the September 27, 2022 notice many times. I think I sometimes called up to twenty times a day, from morning until 5:00 in the afternoon, hoping for help. There were two numbers on that notice. I called one of them and that number just cuts off. I called the other one and sometimes I spoke with a representative before getting cut off, they would transfer me, and then I would get cut off. Sometimes a representative said that they would try to resolve the issue. Eventually, I

could not get through at all anymore. I suspected the number stopped taking my calls. Then I called The Legal Aid Society for help.

26. At that time, in or around October and November 2022, I had a working computer and I used the internet to find more numbers to call to try to reach the SNAP program. I called every number I could find, but I did not have any success reaching someone with the SNAP program who would help me.
27. It is not right that HRA cut off my SNAP. I responded to HRA's request and submitted my recertification. I received a notice that I would continue to get my SNAP benefits. Each month I hoped my benefits would be issued but HRA dropped my case without notice or explanation and there is no way to reach HRA. I called dozens of times daily to try to fix this. I need my benefits. HRA should not treat me or anyone else like this. I want them to be held accountable for these deprivations and these hardships. I ask the Court to please grant relief to me and to others in this case.
28. I am signing this declaration after its contents were translated and read to me in Polish.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 26, 2023.

Brooklyn, New York


Maria Forest



LM Language Services Inc.
103 Carnegie Center, Suite # 300 Princeton, NJ 08540
Phone: 917-319-9932 Fax: 212-428-6724
E-mail: projects@lmlanguageservices.net

AFFIDAVIT FROM WOJCIECH BUGALSKI

STATE OF NEW JERSEY
[COUNTY OF MERCER] ss:

I, Wojciech Bugalski, being duly sworn, under penalty of perjury and say:

1. I, Wojciech Bugalski, hereby certify that I am fluent in Polish and English and I am competent to translate from Polish to English. I am bilingual and have translated legal documents into both languages.
2. I have translated the document: "The Declaration of Maria Forest" from English to Polish, and the translation is true and accurate to the best of my abilities.

A handwritten signature in black ink, consisting of stylized, overlapping letters that appear to be 'WJB'.

Signature of translator Wojciech Bugalski

Subscribed and sworn before me on this
__25__ day of __January__ 2023



EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA FOREST, LARYSA NAZARENKO,
SVITLANA ANTOSHCHENKO, and GLENNICE
SIMON, individually and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

CITY OF NEW YORK, GARY JENKINS, in his
official capacity as Commissioner, New York City
Department of Social Services, and LISA
FITZPATRICK, in her official capacity as
Administrator, New York City Human Resources
Administration,

Defendants.

Civ.

DECLARATION OF LARYSA NAZARENKO

1. My name is Larysa Nazarenko.
2. I am 62 years old.
3. I live in Brooklyn, New York.
4. I am a Ukrainian citizen, and I only speak Ukrainian and Russian.
5. I fled the war in Ukraine and was paroled into the United States on August 19, 2022.
6. I am presently unemployed and have no income.
7. I applied for SNAP benefits on August 31, 2022. HRA initially improperly denied my case due to immigration status, and then reversed the denial on December 14, 2022. I applied for Cash Assistance on September 15, 2022, and never received a determination on that application. I applied for Cash Assistance again on December 4, 2022, and HRA has not made a determination on my application.

8. I live with my adult son who pays the rent.
9. The lack of cash assistance has had a dramatic impact on me. I am from Kiev and had to evacuate quickly. I had recently retired and was getting ready to apply for my pension before fleeing.
10. I have depleted my savings and have no money in my bank account and no way to meet my basic needs.
11. I receive \$281 per month in SNAP, and I have been receiving an additional \$95 in a SNAP Emergency Allotment. This is my only source of income.
12. On both September 15, 2022 and December 4, 2022, I applied for Cash Assistance using ACCESS HRA with the help of a friend. I submitted all supporting documents using the ACCESS HRA app.
13. I received confirmations on September 15, 2022 and December 4, 2022 that my applications had been successfully submitted.
14. After I submitted my applications on September 15, 2022 and December 4, 2022, I never received a phone call from HRA to complete my phone interview. I also did not receive any sort of notice from HRA informing me that I needed to submit other documents.
15. I have no information about the status of my September 15, 2022 application, and never received a determination from HRA. I have checked the status of my December 4, 2022 application with the assistance of my social worker repeatedly. As of today, my application is still pending, and I am still without cash assistance benefits.
16. I have been deprived of benefits to which I am entitled despite completing everything for my application. HRA has not issued a determination on my application and has not issued me benefits.

17. I want HRA to process my application and issue me the cash assistance benefits to which I am entitled immediately. This includes the retroactive benefits I am owed and going forward. I need these benefits to meet my basic needs.
18. This declaration was read to me in Russian by Alla Itkina, a social worker at Jewish Community House ("JCH") of Bensonhurst.

I declare under the penalty of perjury that the foregoing is true and correct.
Executed on January 24, 2023
Brooklyn, NY



Larysa Nazarenko

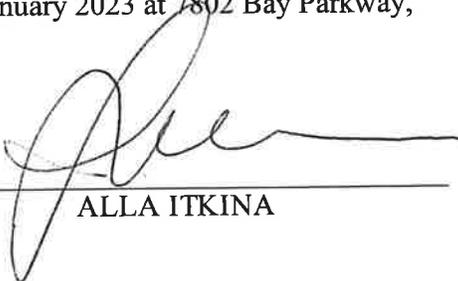
AFFIDAVIT OF TRANSLATION OF DECLARATION

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, ALLA ITKINA, declare under the penalty of perjury that the following is true and correct:

1. I read and speak both English and Russian fluently.
2. On the 24th day of January 2023, I translated the Declaration of Larysa Nazarenko, consisting of a total of three pages, from English to Russian to Larysa Nazarenko, designated as the declarant therein (the "Declarant").
3. The Declarant acknowledged that she understood the contents of the Declaration and then signed it in my presence on the 24th day of January 2023 at 7802 Bay Parkway, Brooklyn, New York 11214.

Dated: 1/27/2023



ALLA ITKINA

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA FOREST, LARYSA NAZARENKO,
SVITLANA ANTOSHCHENKO, and GLENNICE
SIMON, individually and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

CITY OF NEW YORK, GARY JENKINS, in his
official capacity as Commissioner, New York City
Department of Social Services, and LISA
FITZPATRICK, in her official capacity as
Administrator, New York City Human Resources
Administration,

Defendants.

Civ.

DECLARATION OF SVITLANA ANTOSHCHENKO

1. My name is Svitlana Antoshchenko
2. I am 66 years old.
3. I live in Brooklyn, New York.
4. I am a Ukrainian citizen, and I only speak Ukrainian and Russian.
5. I came to the United States on a temporary visa on December 6, 2021, and I was planning to return to Ukraine. I was in the United States when Ukraine was invaded, specifically Kherson, where I am from, and I could not return to Ukraine. I was granted Temporary Protected Status on October 6, 2022.
6. I am presently unemployed and have no income.
7. I applied for Cash Assistance benefits on October 24, 2022. HRA has not made a determination on my application.

8. I am currently living with roommates.
9. The lack of cash assistance has had a dramatic impact on me. I cannot return to Ukraine at this time, and I am not able to access my pension there.
10. I have depleted my savings and have no money in my bank account and no way to meet my basic needs.
11. On October 24, 2022, I applied for Cash Assistance in person at the Coney Island Job Center. I received a confirmation on ACCESS HRA that my application had been successfully submitted.
12. I submitted all supporting documents in person on the date when I applied and received a document receipt from the Coney Island Job Center dated October 24, 2022.
13. When I submitted my application on October 24, 2022, they conducted an interview in person. They told me that this was my eligibility interview.
14. I also did not receive any sort of notice from HRA informing me that I needed to submit other documents.
15. As of today, my application is still pending, and I am still without cash assistance.
16. I have been deprived of benefits to which I am entitled despite completing everything for my application. HRA has not issued a determination on my application and has not issued me benefits.
17. I want HRA to process my application and issue me the cash assistance benefits to which I am entitled immediately. This includes the retroactive benefits I am owed and going forward. I need these benefits to meet my basic needs.

18. This declaration was read to me in Russian by Alla Itkina, a social worker at Jewish Community House ("JCH") of Bensonhurst.

I declare under the penalty of perjury that the foregoing is true and correct.
Executed on January 26, 2023
Brooklyn, NY



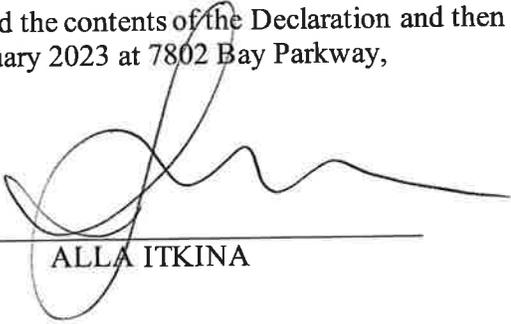
Svitlana Antoshchenko

AFFIDAVIT OF TRANSLATION OF DECLARATION

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, ALLA ITKINA, declare under the penalty of perjury that the following is true and correct:

1. I read and speak both English and Russian fluently.
2. On the 26th day of January 2023, I translated the Declaration of Svitlana Antoshchenko, consisting of a total of three pages, from English to Russian to Svitlana Antoshchenko, designated as the declarant therein (the "Declarant").
3. The Declarant acknowledged that she understood the contents of the Declaration and then signed it in my presence on the 26th day of January 2023 at 7802 Bay Parkway, Brooklyn, New York 11214.



ALLA ITKINA

Dated: 1/26/2023

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIA FOREST, LARYSA NAZARENKO,
SVITLANA ANTOSHCHENKO, and GLENNICE
SIMON, individually and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

CITY OF NEW YORK, GARY JENKINS, in his
official capacity as Commissioner, New York City
Department of Social Services, and LISA
FITZPATRICK, in her official capacity as
Administrator, New York City Human Resources
Administration,

Defendants.

Civ.

DECLARATION OF GLENNICE SIMON

1. My name is Glennice Simon. I am 55 years old.
2. I live in Brooklyn, New York. I live with my adult son, Chrisshawn Martin. Chrisshawn is 22 years of age.
3. I receive Supplemental Security Income (“SSI”) due to my disability in the amount of \$914 monthly. Until December 2022, Chrisshawn received public assistance in the amounts of \$91.50 twice a month issued on our Electronic Benefits Transfer (“EBT”) card and separately \$107.50 twice a month issued directly towards paying the rent. We have no other income in our household.
4. I have several disabilities. I have back spasms and spinal stenosis that often require me to wear a back brace. I have emphysema that is exacerbated by cold weather. I often have to use a machine – a nebulizer with medication – at home for my breathing. Stress also

exacerbates my breathing issues and I have to get on my machine for breathing help when I'm more stressed. I experience chest pain and went to the hospital for chest pain a few weeks ago. I also have a lot of trouble being in groups of people and with in-person interactions.

5. The Human Resources Administration ("HRA") knows a lot about my disability. Prior to my 2015 SSI application, HRA referred me to apply for disability benefits because I could not work due to my disabilities.
6. Through October 2022, Chrisshawn and I received Supplemental Nutrition Assistance Program ("SNAP") benefits. On October 7, 2022 we received \$406 and on October 22, 2022 we received \$110 in SNAP benefits. In November 2022, our SNAP benefits stopped without notice.
7. After we did not get SNAP in November, I called the phone number on the back of my EBT card and it told me that my case was due for recertification. I was surprised. I had received no paperwork about this from HRA.
8. My son and I talked about this all the time in November. I kept asking him to check the mail for recertification paperwork and there was nothing.
9. I got prepared for recertification expecting something, anything, in the mail about my stamps (SNAP benefits). I got a new letter from the New York City Housing Authority ("NYCHA") to submit to HRA. But I received nothing from HRA.
10. Because Chrisshawn and I share our SNAP benefits case, I receive our communications from HRA about our SNAP benefits and Chrisshawn's public assistance.
11. In December 2022, I received a notice dated December 7, 2022 from Benefits Access Center 66 (Bushwick). The notice said that Chrisshawn's public assistance would be

discontinued on December 18, 2022 because “[y]ou did not send us your completed recertification form and you did not complete the required recertification interview.”

I remember wondering why they were sending this notice after they already cut off our SNAP and without prior notice about recertifying. It did not make sense. I stay on top of my recertifications.

12. The December 7, 2022 notice also said that if we submitted the recertification form within 10 days of the date of the notice, we would get a call for the interview, and the notice would be canceled if Chrisshawn was still eligible for public assistance. However, the notice did not include a recertification form to return.
13. The front page of the notice had several phone numbers on it, including one to call if I wanted to request a recertification form. I did not know how I was going to request a recertification form on the phone, get it, and return it within 10 days as per the notice language, but it did not matter because the phone number did not work anyway. This number is (718) 557-1399, which I have called many times since receiving this notice. Sometimes it rings and eventually the ringing just stops. Sometimes I am put on hold with music and then get cut off. I have not had success getting a representative on this line. This number was listed three times on this notice but it does not work.
14. There were three other numbers on the December 7, 2022 notice. The notice had a name and a number for a worker at Center 66: Dionne Tullet at (212) 331-4203. I called this number and left voicemails and never got a call back. The worker’s voicemail then became full and I could not leave any more messages. I called the other two numbers for “record access” and “fair hearing information and assistance” just to try to get anyone at all, but I could not get through to HRA on any of those lines.

15. The phones are a big problem. They give you numbers to call and no one picks up. If there's a voicemail, it fills up. This is what happens with all of the HRA numbers I try, from general numbers to case worker numbers. I do not understand how we are supposed to contact HRA. Then HRA will say we do not call or do not recertify. I do not understand what we are supposed to do to get our benefits.
16. I had Access HRA on a previous phone but had to get a new phone since then. I have been trying to add Access HRA to my newer phone but I am having trouble learning how to get it on my new phone. Access HRA is not a reliable way for me to manage my benefits because I am not good at using electronics.
17. Chrisshawn last received public assistance issuances of \$91.50 on December 8, 2022 to the household's EBT card and \$107.50 on December 23, 2022 in shelter allowance for rent. Chrisshawn has not received any public assistance since these December issuances.
18. I live in public housing run by NYCHA. My rent is 30% of my SSI income plus Chrisshawn's shelter allowance of \$215 monthly paid directly to NYCHA by public assistance. This shelter allowance is no longer being issued because HRA cut off Chrisshawn's benefits as HRA said they would in the December 7, 2022 notice.
19. The notice also said "You have not been getting SNAP benefits in this case." But we were getting SNAP benefits on the same case until they stopped those benefits without notice in November 2022. This was also very confusing.
20. I am currently trying to figure out my new rent share with NYCHA due to the yearly increase in my SSI. I keep checking my mailbox because I know that public assistance did not pay Chrisshawn's shelter allowance this month and I am worried about how I am

going to make it up since I am struggling with spending all my money on food and other bills.

21. On January 24, 2023 I spoke with The Legal Aid Society for help and they requested a hearing on my behalf challenging the SNAP and public assistance discontinuances.
22. After a very lengthy appeal of an erroneous denial of my SSI application in 2015, I was finally awarded these disability benefits in 2021. Because these benefits included back benefits, I have some money remaining from those back benefits that I have been able to use for food since November 2022 when HRA cut off our SNAP benefits. We went through the November and December holidays without food benefits and very little income. I used my retroactive disability benefits to feed us. I was relieved that I had some of this money left to rely on, but I know it will run out, and I am afraid we will keep losing our benefits because HRA is so unreliable and unreachable and cuts off our benefits without notice or a way to respond to notices we do get that do not make sense. Our income is so little. I don't know what to do.
23. It is really hard and stressful to pay the bills and for all necessities, and then unexpectedly and without planning have to buy food, especially around the times of the holidays. I had nobody to call for help. I had to spend hundreds of dollars to have regular food in the house. Food is expensive now and is going up. I do not have the money to keep buying food. I have had to guide my son on what he can eat for a week and ask him to be careful and please stretch food for the week. It has been rough. Then we had to do the same thing in December, and then got hit with Chrisshawn's notice of discontinuance, and now we are in January and Chrisshawn is not getting any cash and we have to still worry about food this month.

24. Everything for our household is now coming out of my SSI. I cannot wait until check day gets here so I can get some groceries. But we can't make it to check day, so I have to spend my retroactive disability benefit money on the food to make it to the next month without SNAP.
25. Last time I had problems with public assistance, HRA also cut off Chrisshawn's Medicaid. Now I'm very afraid of that, too. Chrisshawn is a chronic asthmatic. Because I know HRA does stuff without notice and also by mistake like cutting off the Medicaid, whenever there is a problem with my public assistance benefits, I worry that it will get bigger.
26. I always stay on top of my recertifications when I get notice. I know how this works. I don't know why they're doing this to us without notice.
27. I can't go on the trains and buses. I have various limitations, psychiatric and physical, that make it very difficult for me to go places. The phone numbers should work. But none of them do.
28. I worry that HRA is doing this because I get disability benefits, too. Maybe they are doing this to cases where people also get disability benefits.
29. HRA is not doing its job. HRA is not communicating with us and we are going through hardships for their mistakes. Work is not done and then HRA closes my case. All HRA did was send me a late notice after they cut off my SNAP with phone numbers that do not work. I need answers about why this is happening. This is wrong. We should not suffer the consequences of HRA messing up. I ask the Court to please fix this for benefits recipients. There should be working numbers and no more run around.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on January 27, 2023

Brooklyn, NY



Glennice Simon

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Maria Forest, Larysa Nazarenko, Svitlana
Antoshchenko, and Glennice Simon, individually
and on behalf of all persons similarly situated,

Plaintiffs,

v.

City of New York; Gary Jenkins, in his official
capacity as Commissioner, New York City
Department of Social Services; and Lisa Fitzpatrick,
in her official capacity as Administrator, New York
City Human Resources Administration,

Defendants.

Civ.

**DECLARATION
OF KATHLEEN KELLEHER**

Kathleen Kelleher declares, pursuant to 28 U.S.C. § 1746:

1. I am a member in good standing of the Bar of this Court and a staff attorney at The Legal Aid Society, one of counsel for plaintiffs in this action.
2. I submit this declaration in support of Plaintiffs' motion for class certification and motion for a preliminary injunction.
3. Exhibit A, attached, contains data sent to me by David Lock, Senior Deputy General Counsel, Office of Legal Affairs, New York City Department of Social Services by email on December 29, 2022, regarding the number of applications and recertifications for Supplemental Nutrition Assistance Program ("SNAP") and Cash Assistance benefits that were overdue.

4. By prior email, dated September 8, 2022, Mr. Lock conveyed that the column entitled “# applications overdue” represents the number of applications where more than 30 days have passed since the filing date, no determination of eligibility has been made, and no deferral has been granted.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 27, 2023
New York, New York

/s/ Kathleen M. Kelleher
Kathleen M. Kelleher

Exhibit A

CA/ SNAP cases (Non- HASA) (data as of Dec 28, 2022)						
Month	# applications overdue	# recerts due	# recerts processed	# recert extensions granted	New recert deadline	# recerts submitted but not yet fully processed – interview conducted
June 2022	0	22,597	22,597	0	N/A	0
July 2022	0	25,749	25,749	0	N/A	0
August 2022	34	30,028	30,028	0	N/A	0
Sept 2022	5,711	35,761	35,761	0	N/A	0
Oct 2022	10,102	35,092	34,733	0	N/A	121
Nov 2022	12,791	41,438	23,532	17,825	3,598 to Feb 2023, 5,972 to March 2023, 5,968 to April 2023, 2,287 to May 2023	11
Dec 2022	NA	40,838	25,431**	14,971	4,958 to April 2023, 5,006 to May 2023, 5,007 to June 2023	56

**1,087 non-extended cases remain where the case has not submitted a recert and still has time before the end of the certification period.