



N E B R A S K A

APPLESEED

STAND UP FOR JUSTICE

September 1, 2015

The Barbara McDowell and Gerald S. Hartman Foundation

October 2014 – September 2015

Year End Report

On August 1, 2014, Nebraska Appleseed filed a class-action lawsuit, *Leiting-Hall v. Phillips*, on behalf of two clients (a working, single mother and a four-person family) who have been unlawfully delayed from receiving time-sensitive and essential help providing food for their families through the Supplemental Nutrition Assistance Program (SNAP). In this case, the named plaintiffs sought to represent a class of hundreds of households that have had to unlawfully wait to receive SNAP.

Throughout the state, the SNAP program helps approximately 175,000 Nebraskans know where their next meal is coming from. Nearly 75 percent of SNAP participants are in families with children; more than one-quarter of participants are in households with seniors or people with disabilities. Nebraska's Department of Health and Human Services (DHHS) systematically failed to follow federal rules, which require SNAP to be provided to eligible households within 30 days. At the time the case was filed, approximately 30% of applications were delayed beyond the 30-day timeline. Following these timeframes is critical because failure to do so means hundreds of SNAP households do not receive assistance to purchase food when they need it each month.

The suit was filed against the former CEO of Nebraska's DHHS, and the former Director of the DHHS Division of Children and Families, Kerry Winterer and Thomas Pristow, respectively. The two were responsible at the time for administering SNAP in Nebraska. Due to changes with the new governor's administration, neither Winterer nor Pristow are still with the DHHS. The defendants in the case are now Courtney Phillips, current CEO of Nebraska DHHS and Douglas Weinberg, director of the Division of Children and Families. The lawsuit alleges that hundreds of Nebraska households have waited longer than the legally required timeframe to receive SNAP and requests DHHS administer the Nebraska SNAP program in a manner that complies with federal law. Appleseed filed this lawsuit with attorneys from the National Center for Law and Economic Justice, which has extensive experience in similar litigation.

The Foundation's grant has provided essential support toward Nebraska Appleseed's efforts to challenge the state's failure to comply with the specified timelines. During the first six months of this grant term, we filed a motion for class certification. The Magistrate Judge recommended that the class be certified, and the District Court judge certified the class in early April. We also worked on a significant amount of discovery by serving and receiving responses to interrogatories and requests for production, as well as conducting four Rule 30(b)(6) depositions at the end of March. In addition, Appleseed filed a motion for a preliminary injunction (PI) in mid-April. This motion has been fully briefed and is pending before the court. We expect a decision on the PI soon. The PI decision will determine the next steps in the case.

Any questions can be directed to staff attorney Molly McCleery at mmccleery@neappleseed.org or 402-438-8853 x113.