



food stamp law.

Plaintiffs seek declaratory and injunctive relief.

#### JURISDICTION

2. R.I.G.L. **§8-2-13** vests jurisdiction in this court. R.I.G.L. **§9-30-1** et sea. provides an additional basis for jurisdiction. Plaintiffs raise claims under 42 U.S.C. **§1983**.

#### PARTIES

3. Plaintiff Samuel Stevens is an adult resident of Rhode Island living at 25 Hanover Street in Providence.

4. Plaintiff Delfin Medina is an adult resident of Rhode Island living at **160-1C** Leonard Jenard Drive in Pawtucket.

5. Defendant is Christine Ferguson, sued in her capacity as Director of the R.I. Department of Human Services (hereafter, "**DHS**"). DHS is the single state agency administering the state's public benefits programs, including the MA and food stamp programs. As Director, Defendant is charged with implementing and enforcing program rules, regulations, and policies, all of which must be operated in compliance with controlling federal law. At all relevant times, Defendant acted under color of state law.

#### FACTS RELEVANT TO MEDICAL ASSISTANCE

6. DHS must provide MA applicants and recipients with the opportunity for a fair hearing. 42 U.S.C. **§1396a(a)(3)**; 42 C.F.R. **§431.205(d)**.

7. Notices denying or terminating MA must be adequate, and must state the reasons for the action and identify the specific regulation(s) supporting it. 42 C.F.R. **§§431.210, 435.912, 435.919**.

a. DHS must provide MA with reasonable promptness to all eligible individuals, without any delay attributable to the agency's administrative procedures. 42 U.S.C. **§1396a(a)(8)**; 42 C.F.R. **§435.930**.

FACTS RELEVANT TO FOOD STAMPS

9. DHS must provide food stamp applicants and recipients with fair hearings. 7 U.S.C. **§2020(e)(10)**; 7 C.F.R. **§273.15**.

10. At application and recertification, DHS must provide each food stamp household with written notice, in clear and simple language, of the verification requirements. The notice must inform the household that DHS has the responsibility to assist it in obtaining required verification, if the household is cooperating.

11. DHS may deny food stamps where a household refuses to cooperate with obtaining verification needed to determine eligibility and complete the application process; however, for a determination of refusal to be made, the household must clearly demonstrate that it will not take actions that it can take and that are required for completion of the application. If there is any question as to whether the household has merely failed (as opposed to refused) to cooperate, DHS may not deny the application.

12. DHS is required to assist a cooperating food stamp household with obtaining necessary verification. 7 C.F.R. **§273.2(f)(5)**.

13. If the household failed to complete its application form, DHS must, prior to denying the application, have offered to assist in its completion.

14. **DHS** is required to accept any reasonable documentary evidence verifying food stamp eligibility, without limiting acceptable verification to any single type of document.

15. When action can't be taken on the food stamp application within thirty days after date of application, DHS must determine whether delay was caused by the household or the agency.

16. If delay is caused by the household, DHS may deny the application for lack of verification, provided that it requested all necessary verification on the date the application was filed; conducted the interview; made no subsequent requests for verification; and assisted the household in obtaining necessary verification. 7 C.F.R. **§273.2(g)(3)**. If the household takes the required action within 60 days of date of application, DHS must reopen the case without requiring a new application.

17. The denial notice referred to in the prior paragraph must explain what the household must do to reactivate the application and must state that the case will be reopened if action is taken within 30 days of date of notice. 7 C.F.R. **§273.10(g)(ii)**.

18. DHS may not deny a food stamp application for lack of verification at the end of thirty days unless it had previously provided a statement of required verification, allowed the household at least 10 days from the date of initial request to provide it, and offered to assist the household in obtaining it. 7 C.F.R. **§273.2(h)(1)(C)**.

19. If DHS has not taken the actions set forth in the preceding paragraph, the delay is not the household's fault. In

such a situation, DHS cannot deny the case on day 30, but must instead **sent out** notice stating the application is **pending and** explaining what action must be taken to complete the process.

#### FACTS ABOUT SAMUEL STEVENS

20. Samuel Stevens applied for food stamps and MA in September 1999.

21. On information and belief, DHS did not provide Samuel Stevens with written notice informing him that DHS has the responsibility to assist in obtaining required verification.

22. A DHS worker advised Mr. Stevens to bring certain documentation, including a rent receipt, to his application interview.

23. Mr. Stevens was interviewed and provided all documents previously requested by DHS. On information and belief, the interview occurred on or about September 28, 1999.

24. The DHS worker did not tell Mr. Stevens at the interview, or inform him in a subsequent written notice, that he needed to provide additional information or documentation.

25. On information and belief, prior to denying Mr. Stevens' food stamp application, DHS did not assist him in obtaining the required information or in completing his application.

26. On information and belief, prior to denying Mr. Stevens' food stamp application, DHS did not send him a written statement identifying what information he had failed to provide and giving him 10 days to provide it.

27. On or about November 4, 1999 DHS sent Mr. Stevens a

notice denying his applications for food stamps and MA. Attached as Exhibit **A** is a true copy of that notice.

28. The November 4, 1999 notice stated that food **stamps and MA** were denied because "You did not provide all the **required information**", but did not identify what information was missing.

29. The November 4, 1999 notice cited DHS Manual §1002.60 in support of the food stamp denial.

30. The November 4, 1999 notice cited DHS Manual §300.25.15 in support of the MA denial.

31. Mr. Stevens did not know why his case had been denied.

32. On **November** 15, 1999 Mr. Stevens called his worker to ask why he was denied benefits. The DHS worker informed him that although he had provided all necessary information, he had neglected to sign his application form.

33. On information and belief, the reason DHS issued the November 4, 1999 notice was that Mr. Stevens had neglected to sign his application form.

34. Mr. Stevens cooperated with the application process and never refused to take an action requested of him. Any delay in completing the process was caused by the agency.

#### **FACTS ABOUT DELFIN MEDINA**

35. Delfin Medina applied for MA benefits in the summer of 1999. On August 5, 1999 DHS sent him notice denying his application because "**there** are no eligible members in the RI Medical Assistance **case**"; the notice cited DHS Manual 5300.05. Attached as Exhibit B is a true copy of this notice.

36. To the extent that the August 5, 1999 notice cited other reasons and regulations, their placement in the notice was such as to fail to provide adequate notice.

37. DHS records indicate that Mr. **Medina's** primary language is Spanish.

38. Mr. Medina subsequently reapplied for MA. On or about October 13, 1999, DHS sent him a list of documents he needed to bring. Attached as Exhibit C is a true copy of this letter. DHS timely received the documents requested in this letter.

39. Subsequent to October 13, 1999, DHS did not send Delfin Medina a written request for additional information.

40. On or about October 27, 1999 DHS sent Mr. Medina notice denying his application because **"You** did not provide all the required information." The notice didn't specify what was missing. Attached as Exhibit D is a true copy of page one of this notice.

41. Delfin Medina cooperated with the application process and did not fail or refuse to provide any information DHS requested.

#### FACTS ABOUT DHS' SYSTEMS

42. DHS has programmed its **Inrhodes** computer with various standardized texts as the reason for an agency action. Among the reasons are: **"you** did not provide all the required information" and **"there** are no eligible members in the [MA or food stamp case]."

43. DHS workers choose, among the menu(s), one reason for agency action. The system then generates a notice giving that reason, and automatically generates a regulation cite in support of the reason.

44. "You did not provide all the required information" may be the **reason** cited in a wide variety of circumstances, **including** (among other things) failure to attend an office interview; failure to sign forms; or failure to verify any of several **specific** financial or non-financial eligibility factors.

45. **DHS** issues hundreds of notices (or more) each month which give failure to provide all required information as reason for agency action.

46. **DHS** issues hundreds of notice (or more) each month which **state as** reason for agency action: "**there** are no eligible members" in the household **or case**.

47. **DHS** has not programmed its computer system with "**refusal** to provide all required information" or "**refusal** to cooperate" as a standardized reason for action in a food stamp case.

48. **DHS'** **systems** are such that a worker may issue a notice denying or terminating benefits for failure to provide all required information, without identifying the missing information.

49. **It** is **DHS'** policy or practice to send notice denying or terminating food stamps for failure to provide required information where:

(a) applicant/recipient merely failed, but did not refuse, to provide required information;

(b) **DHS** has not sent applicant/recipient a written statement **of** required information or verification and provided him/her with at least 10 days to provide it; and/or

(c) **DHS** has not offered to assist in obtaining the needed

information.

50. It **is DHS'** policy or practice not to include in the food stamp denial or termination notice **information** about what the person has to do to reactivate the application and when DHS will reopen the case.

51. It is **DHS'** policy or practice, where a decision on the food stamp application can't be made by day 30 due to lack of verification, to issue a notice denying the application, without determining whether delay was caused by the household or the agency, and even if the agency, in fact, caused the delay.

#### CLAIMS

52. **DHS'** notice denying or terminating benefits for "**failure to provide all required information**" is inadequate, and in violation of state and federal law: R.I.G.L. **§40-5.1-29, §40-6-13, §40-8-7**; 42 U.S.C. **§1396a(a)(3), §1396a(a)(8)**; 42 C.F.R. **§431.205(d)**; 42 C.F.R. **§§431.210, 435.912, 435.919, 435.930**; 7 U.S.C. **§2020(e)(10)**; 7 C.F.R. **§273.15, 7 C.F.R. §273.10(g)**, giving rise to **claims** under 42 U.S.C. **§1983**.

53. DHS deprived plaintiffs of the opportunity for a fair hearing, in violation of R.I.G.L. **§40-5.1-29, §40-6-13, §40-8-7**; 42 U.S.C. **§1396a(a)(3)**, 7 U.S.C. **§2020(e)(10)** and the regulations promulgated thereunder, and deprived them of benefits without due process, contrary to the Fourteenth Amendment to the U.S. Constitution and Art. 1, **§2** of the R.I. Constitution, thus giving rise to **claims** under 42 U.S.C. **§1983**.

54. DHS denied Samuel Stevens food stamps in violation of

food stamp regulations, 7 C.F.R. §273.2(d) (1), §273.2(f) (5), §273.2(g) (3), 7 C.F.R. §273.2(h) (1) (C) & (h)(2)&(3), §273.10(g), and §273.2(c) (5).

WHEREFORE, Plaintiffs ask this Honorable Court to:

1. Assume jurisdiction over this matter.
2. Declare that **DHS'** notices denying benefits for failure to provide required information or because "**there** are no eligible members...." are inadequate and violate state and federal law as alleged herein, and declare that DHS has deprived plaintiffs of the opportunity for a fair hearing and of benefits without due process, contrary to statutory and regulatory provisions, the Fourteenth Amendment to the U.S. Constitution, and Art. 1, §2 of the R.I. Constitution.
3. Declare that DHS violated the Food Stamp Act and regulations promulgated thereunder, in denying Plaintiff Stevens food stamps.
4. Preliminarily and permanently enjoin DHS from denying benefits for failure to provide information, unless at the beginning of the notice in the "**reason**" section, DHS identifies the precise information the individual applicant or recipient failed to provide, or necessary steps s/he failed to take, and cites the specific department regulation addressing the particular eligibility factor or required action.
5. Preliminarily and permanently enjoin DHS from denying food stamps for failure to provide information, unless:
  - (a) DHS has determined, in accordance with 7 C.F.R.

**§273.2(h)(1)**, that the household, not the agency, caused the delay;

(b) DHS asked applicant/recipient for the information, and, despite being capable of obtaining it, the applicant/recipient refuses to do so or to allow DHS to do so (in which the notice shall specify that applicant/recipient refused to cooperate or refused to provide necessary information);

(c) DHS took the steps set forth in 7 C.F.R. **§273.2(h)(1)(A)** through (D);

(d) DHS provided written notice to applicant or recipient of its obligation to assist in obtaining verification; and/or

(e) the missing information is required for determining eligibility and can't be verified by information already in the file.

(f) the denial notice contains the information required by 7 C.F.R. **§273.10(g)(ii)** regarding reopening of the case.

6. Preliminarily and permanently enjoin DHS from denying food stamps for lack of verification if delay in processing the application was caused by the agency under 7 C.F.R. **§273.2(h)(1)**, instead ordering it to take immediate corrective action and send notice of pending status, in accordance with **§273.2(h)(3)**.

7. Preliminarily and permanently enjoin DHS from denying benefits because **"there** are no eligible members...." in the case or household.

8. Preliminarily and permanently enjoin DHS from denying benefits unless the notice contains a clear statement, at the beginning of the notice in the **"reason"** section, of the

individualized reason for ineligibility and a citation to a regulation addressing the individualized reason for ineligibility.

9. Grant such other relief as the court deems just, including an award of costs under 42 U.S.C. §1988.

Plaintiffs

By their attorney



**Gretchen Bath #4038**

R.I. Legal Services

56 Pine St.

Providence RI 02903

(401) 274-2652 x132

FAX: 453-0310

failure.com

**NOTICE**

PROVIDENCE Office  
206 ELMWOOD AVE  
PROVIDENCE RI 02907

If you have any questions about this notice,  
call FELIX X NAMAKA at 401-222-7000

Notice for: SAMUEL STEVENS  
Case number: 240-94-2596

SAMUEL STEVENS  
#3  
25 HANOVER ST 1STFL  
PROVIDENCE RI 02907

November 04, 1999

Dear SAMUEL STEVENS:

Based on the information we have, the following actions have been taken:

**FOOD STAMPS:**

Your application for Food Stamps has been denied for September, 1999  
because:

You did not provide all the required information (RI DHS Manual, Section  
1002.60).

**MEDICAL ASSISTANCE PROGRAM**

10:27 AM

Your application for RI Medical Assistance has been denied for the month  
of September, 1999 because:

You did not provide all the required information (RI DHS Manual, Section  
0300.25.15):

The following individual(s) is(are) not eligible for RI Medical  
Assistance:

SAMUEL STEVENS

November 04, 1999

EXH. A

11/09/99 09:44  
FSD5597 NOTC

N O T I C E D I S P L A Y

ESUF ASMEBG2  
PW10 F'ROD

PAWTUCKET OFFICE  
24 COMMERCE ST  
PAWTUCKET RI 02860

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE,  
CALL JANICE L LARSON AT 401-728-2000

CASE NUMBER: 116-84-1708

NOTICE FOR : DELFIN MEDINA

DELFIN MEDINA

~~160-1C~~ LEONARD JENARD DR

PAWTUCKET RI 02860

AUGUST 05, 1999

DEAR DELFIN MEDINA:

BASED ON THE INFORMATION WE HAVE, THE FOLLOWING ACTIONS HAVE BEEN TAKEN

RL: 26 CASELOAD: M103 CASE NAME: MEDINA  
FNX: CASE MODE: DCASE ID: 11684 1708

DELFIN  
MONTH: 08 97

CMD: -----  
PNL: -----

EXH B

11/09/99 09:44  
PSD5597 NOTC

N O T I C E D I S P L A Y

ESUP ASMEBG2  
FW10PROD

MEDICAL ASSISTANCE PROGRAM

11:35 AM

YOUR APPLICATION FOR RI MEDICAL ASSISTANCE HAS BEEN DENIED FOR THE MONTH OF JULY, 1999 BECAUSE:

THERE ARE NO ELIGIBLE MEMBERS IN THE RI MEDICAL ASSISTANCE CASE (RI DHS MANUAL, SECTION 0300.05).

THE FOLLOWING INDIVIDUAL(S) IS(ARE) NOT ELIGIBLE FOR RI MEDICAL ASSISTANCE:

~~DELFIN MEDINA IS NOT AGED, --OR BLIND, OR PERMANENTLY DISABLED, TO QUALIFY FOR MEDICAL ASSISTANCE, AN INDIVIDUAL OR COUPLE MUST MEET ONE OF THESE CHARACTERISTICS (RI DHS MANUAL, SECTION 0306.05).~~

AN INDIVIDUAL APPLYING FOR MEDICAL ASSISTANCE ON THE BASIS OF THE SSI-RELATED CHARACTERISTIC OF AGE MUST BE 65 YEARS OF AGE OR OLDER (RI DHS MANUAL, SECTION 0306.05.05).

RL: 26 CASELOAD: M103 CASE NAME: MEDINA  
FNX: CASE MODE: D CASE ID: 11684 1708

DELFIN  
MONTH: 08 77

CMD: -----  
PNL: -----

11/09/99 09:44  
PSD5597 NOTC

N O T I C E D I S P L A Y

ESUP ASMEBG2  
PW10 PROD

TO BE ELIGIBLE ON THE BASIS OF BLINDNESS, THE INDIVIDUAL'S (ADULT OR CHILD) VISION MUST HAVE CENTRAL VISION ACUITY OF 20/200 OR LESS IN THE BETTER EYE WITH CORRECTIVE LENSES, OR A FIELD IS CONTRACTED TO SUCH AN EXTENT THAT THE WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGULAR DISTANCE NO GREATER THAN 20 DEGREES (SEC 0306.05.10).

FOR PURPOSE OF ELIGIBILITY AN INDIVIDUAL IS DISABLED IF UNABLE TO ENGAGE IN ANY GAINFUL EMPLOYMENT DUE TO A PHYSICAL OR MENTAL IMPAIRMENT WHICH HAS OR CAN BE EXPECTED TO LAST NOT LESS THAN TWELVE (12) MONTHS OR TO RESULT IN DEATH OR IN THE CASE OF A CHILD IF THERE IS AN IMPAIRMENT OF COMPARABLE SEVERITY (SECTION 0306.05.15).

THE FOLLOWING INDIVIDUAL(S) IS (ARE) NOT ELIGIBLE FOR THE FULL SCOPE OF RI MEDICAL ASSISTANCE:

DELFIN MEDINA DOES NOT MEET THE REQUIREMENT OF CITIZENSHIP/ALIENAGE (RI DHS MANUAL, SECTION 0304.05) . . HOWEVER, DELFIN MEDINA MAY BE ELIGIBLE FOR,

RL: 26 CASELOAD: M103 CASE NAME: MEDINA  
FNX: CASE MODE: D CASE ID: 11684 1708

DELFIN  
MONTH: 08 99

CMD: .....  
PNL: .....

11/09/99 09:44  
PSD5597 NOTC

N O T I C E D I S P L A Y

ESUP ASMEBG2  
PW10 PROD

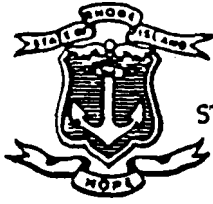
MEDICAL ASSISTANCE RESTRICTED SERVICES. MEDICAL ASSISTANCE RESTRICTED SERVICES PROVIDES PAYMENT ONLY FOR EMERGENCY SERVICES (RI DHS MANUAL, SECTION 0316.10).

A NEW MEDICAL ASSISTANCE APPLICATION MUST BE FILED WHEN EMERGENCY SERVICES HAVE BEEN RECEIVED.

RL: 26 CASELOAD: M103 CASE NAME: MEDINA  
FNX: CASE MODE: D CASE ID: 11684 1708

DELFIN  
MONTH: 08 99

CMD: \_\_\_\_\_  
FNL: \_\_\_\_\_



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Human Services  
24 Commerce Street  
Pawtucket, RI 02860

\_\_\_\_\_ 10 / 99

Yellin Medina  
160 - 10 - Leon and Jinarod  
Pawtucket RI - 02860

SS # 116 - 84 - 1708

Dear Mr. Medina,

The following verification must be provided to me by 10/25/99 eligibility for Medical Assistance can be determined. Failure to provide all verification will result in your application being **DENIED**. Please mail **COPIES ONLY**; do not send in originals.

- Medicare Cards for \_\_\_\_\_
- United States Birth Certificate or Naturalization Certificate or Resident Alien Card (copy of **FRONT** and **BACK**) or other proof of **lawful United States residence** for \_\_\_\_\_
- \_\_\_\_\_ Social Security cards or receipts for \_\_\_\_\_
- \_\_\_\_\_ Copies of **all** bank accounts (savings, checking, money market, etc.)
- \_\_\_\_\_ Vehicle registrations or titles and proof of loan balance if any
- \_\_\_\_\_ Burial contracts, life insurance policies (current cash value), etc.
- \_\_\_\_\_ Blue Cross, Ocean State, etc., cards and current payment receipts
- \_\_\_\_\_ Unpaid medical bills from any period and paid receipts **from** \_\_\_\_\_
- \_\_\_\_\_ **to the present**
- Verification** of all income (Social Security, other pensions, etc.)
- \_\_\_\_\_ Verification of Rental Income
- \_\_\_\_\_ Last four (4) paystubs for \_\_\_\_\_
- Sign and date** the attached SAV-1 Citizenship form where indicated.
- Sign and date** the attached AP-91 Bank release.
- \_\_\_\_\_ Rent receipt with name and address on it, gas and **electric** bills
- \_\_\_\_\_ Mortgage Statement, taxes, and insurance
- Other:** If no income, a letter of support if someone is supporting you.

\_\_\_\_\_ of the above may be mailed to this office. Please mail **COPIES ONLY**. Be sure to put my name on the envelope. If you wish to come to the office, an appointment is necessary. You may reach me at #728-2000 if you have any questions.

Sincerely,  
Janice Larson  
Eligibility Technician

Enclosures

EXH C

11/09/99 09:45  
PSD5597 NOTC

N O T I C E D I S P L A Y

ESUP ASMEBG2  
PW10 PROD

PAWTUCKET OFFICE  
24 COMMERCE ST  
PAWTUCKET RI 02860

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE,  
CALL JANICE L LARSON AT 401-728-2000

NOTICE FOR: DELFIN MEDINA  
CASE NUMBER: 116-84-1708

-----  
DELFIN MEDINA  
160-1C LEONARD JENARD DR  
PAWTUCKET RI 02860  
OCTOBER 27, 1999

DEAR DELFIN MEDINA:  
BASED ON THE INFORMATION WE HAVE, THE FOLLOWING ACTIONS HAVE BEEN TAKEN:

RL: 26 CASELOAD: M103 CASE NAME: MEDINA DELFIN  
FNX: CASE MODE: D CASE ID: 116841708 MONTH: 10 99

CMD: -----  
PNL: -----

EXH D

11/09/99 09:45  
PSD5597 NOTC

N O T I C E D I S P L A Y

ESUF ASMEBG2  
FW10 PROD

MEDICAL ASSISTANCE PROGRAM

01:56 PM

YOUR APPLICATION FOR RI MEDICAL ASSISTANCE HAS BEEN DENIED FOR THE MONTH OF SEPTEMBER, 1999 BECAUSE:

YOU DID NOT PROVIDE ALL THE REQUIRED INFORMATION (RI DHS MANUAL, SECTION 0300.25.15).

THE FOLLOWING INDIVIDUAL(S) IS(ARE) NOT ELIGIBLE FOR RI MEDICAL ASSISTANCE:

DELFIN MEDINA

DECEMBER 10, 1999

RL: 26 CASELOAD: M103 CASE NAME: MEDINA  
FNX: CASE MODE: D CASE ID : 116841708

DELFIN  
MONTH: 10 99

CMD: -----  
PNL: -----