

**TESTIMONY OF Kathleen McGarvey**  
**Director, The Legal Aid Society of Columbus**  
**Community & Family Advancement Committee**  
**HOUSE REPRESENTATIVE BILL 50**  
**March 22, 2017**

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Good afternoon Chairman Ginter, Vice Chairman Conditt, Representative Boyd and distinguished members of the Community & Family Advancement Committee. I appreciate the opportunity to speak with you today regarding House Bill 50. My name is Kate McGarvey, and I am director of the Legal Aid Society of Columbus.

The Legal Aid Society of Columbus provides free legal assistance in civil matters to ensure access to justice for economically disadvantaged people in Central Ohio through advocacy, education and empowerment. Our representation includes assistance with accessing public benefits. In the past 24 months, we have closed 289 SNAP cases for individuals who have had their food stamp benefits delayed, denied, reduced or where there were questions regarding whether the household was receiving the correct amount of benefits. As you can see, issues around access to SNAP benefits are something that we see regularly.

I want to be clear that while we are opposed to HB 50, we do not do so with the intent of either condoning or excusing activity that is intentionally fraudulent. Fraud undermines public confidence in important public programs. It jeopardizes the ability of those programs to provide vital assistance to the overwhelming majority of low-income households who genuinely need assistance, are honest and play by the rules. Instead, we oppose HB 50 because it would have the effect of reducing the number of households receiving SNAP benefits, despite their eligibility, due to increased administrative barriers. It would prove costly and ineffective at fighting fraud, yet make it more difficult for low-income families to put food on the table.

**Implementation of HB 50's requirement that "a color photograph of at least one adult member of the household" be put on the front of the card is more complicated than it appears.**

SNAP is distinctive in the benefits world by setting the assistance group not as an individual or as a family, but as the household which is defined as those who "purchase and prepare meals together." This unit can therefore include adults with no legal or financial obligation to each other. It can also exclude adults who do have a familial relationship but because of special diet requirements must make separate meals. This definition increases the complexity to the already challenging implementation of photo identification on SNAP cards.

Federal SNAP regulations explicitly require "that all appropriate household members or authorized representatives be able to access benefits from the account as necessary regardless of who is pictured on the card without having to submit additional verification." Therefore, as an example, in a basic household, the wife may be pictured on the SNAP card but her husband and her teenage child must also be able to use the card, even though it has her picture on it without other verification of their relationship. Further, her elderly mother lives down the street and has her own SNAP household. But, because her health is poor she is also homebound and unable to shop for herself. Adult daughter, with her mother's permission, must be able to continue to do the shopping for her mom, again, without the requirement of submitting verification of the relationship. Retailers and checkout clerks must be trained and able to implement these complicated requirements in a way that allow all appropriate household members and authorized representatives to utilize the card.

Second, the federal regulations require that retailers treat all SNAP customers in the same manner as non-SNAP customers. Any identification check required for food assistance customers in a particular store would have to be applied equally to all users of electronic payment cards, including credit and debit cards, at that store. If it did not, the retailer would be in violation of federal law and at risk of loss of EBT vendor status. Today with the vast majority of food retailers using PIN pads and not requiring signatures for many typical transactions, the average shopper is rarely asked to turn over their card for inspection or to provide a photo ID as verification.

In fact, the Governor of Georgia at one point said that he would not implement a photo EBT bill because retailers could not (and would not) look at the cards. In Massachusetts, a state that implemented and then eliminated the photo ID requirement, retail members stated that these requirements coupled with the general practice of not asking individuals for their card, since it is swiped by the customer, meant that the photo ID rule did not change anything in the transaction.

**HB 50, as currently drafted, does not include all the federally required exemptions.**

While federal rules allow states to implement a mandatory photo ID rule for SNAP benefits, they require minimum exemptions. HB 50 includes a few of these but it fails to exempt all children (not just children without adult household members) and homeless households. Further, it fails to specify, as required by federal regulations, that domestic violence victims shall be able to self-attest and cannot be required to submit documentation to prove domestic violence.

HB 50 entirely omits any specific provisions for serving clients with hardships despite the federal requirement to do so. The federal regulations require that state agencies must have sufficient capacity to issue photo EBT cards and a process or procedure in place to address, on a case-by-case basis, household hardship situations as determined by the state agency so that household benefits are not duly withheld. Stated examples of hardship conditions include but are not limited to: illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather or work or training that prevent the household from being available during the hours that photos are taken in the office. These are households that do not already fall under the mandatory exemptions but must be addressed.

**Prorating household benefits is mandatory, yet not included in HB 50.**

Federal regulations require states with mandatory SNAP photo identification rules to pro rate benefits for multi-person households. State agencies are prohibited from withholding benefits for an entire household because non-exempt household members do not comply with the photo EBT card requirement. Therefore, in a household with children when the parent has not had their photo taken, that household must continue to get its pro-rated share of SNAP benefits. Similarly, households that include persons with a disability or a senior cannot be terminated from SNAP benefits based on the failure of someone else in their household who did not have their photo taken. Because the photo EBT card option is a function of issuance and not of eligibility, non-expired benefits must be provided within two business days of when the state agency obtains the individual's photo. This, as well as other provisions, will require county caseworkers to take a thorough and individual look at each SNAP case.

**Expedited food stamps must be issued without a photo ID requirement, even if the state enacts a mandatory provision.**

While HB 50 states that after twelve months of the effective date each debit card issued shall be replaced with a debit card that meets the photo ID requirement, it fails to consider the rules under expedited food stamps. Expedited food stamps rules require the agency to issue an EBT card without a photo ID and provide the full benefit allotment to the entire household within the 24 hour to 7 day deadline for determining eligibility for households having zero income and zero assets. To comply with federal law, this provision would have to be added, and would require the agency to process and send multiple cards.

**The process for issuing and activating photo EBT cards must not disrupt, inhibit or delay access to benefits nor cause a gap in access to ongoing benefits for eligible households.**

Ohio would have to implement the photo EBT cards in a way that does not disrupt, inhibit or delay access to benefits nor cause a gap in access to ongoing benefits for eligible households. At this time, Ohio does not require a face-to-face food stamp meeting for many households to approve benefits. HB 50 would mean that counties would have to add a process to obtain pictures and get those to the vendor within the 30 day timeframe for processing applications. Similarly, for re-applications, many individuals are not required under current rules to come into the agency for that process. HB 50 would change that. It would also require the re-issuance of cards for all individuals not-exempt and would have to ensure that existing cards are not terminated before new cards are received and activated.

These types of issues (amongst others) are what Massachusetts cited for the reason that they stopped the photo identification requirement the first time they tried in 2004. Those stated reasons included: inadequate staff within the agency to administer the photo EBT cards; expense of equipping each agency office with a special camera set-up and photo printer to produce the cards; burden upon individuals having to come into the office to be photographed; recognition that merchants did not check the photos on the photo EBT cards, just as they did not ask credit or debit card customers to show photo IDs; and little discernible effect on fraudulent use of EBT cards. Despite that experience, Massachusetts tried again in 2013 and had significant problems with the rollout. Difficulty was experienced in informing retailers of their requirements, notifying SNAP households of the new requirements, inability of agencies to respond to the beneficiaries affected by the new changes, correctly excluding exempt individuals, deactivating existing SNAP cards without new benefits being available, all of which resulted in extreme beneficiary confusion and hardship. Based on these issues, as well as the cost of implementation which exceeded \$8 million according to the Urban Institute, Massachusetts again abandoned the requirement. Other states have estimated that it costs between \$2 million in Michigan to \$17.6 million in Washington State. Both of those states have rejected the EBT photo ID as costly and ineffective in addressing SNAP fraud or trafficking.

**Conclusion**

Anti-fraud efforts are better aimed at focusing on small retailers, improved data collection and other means which specifically target areas more prone to fraud, instead of rolling out a program which will inevitably stop eligible beneficiaries from receiving needed SNAP benefits because of the procedural pit falls.

Thank you, and I'll be glad to take any questions you may have.

