

**COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT**

**SUFFOLK, SS.**

**SUPERIOR COURT  
CIVIL ACTION  
NO.**

**KELLY GLYNN, et al.,**

Plaintiffs,

v.

**AMY KERSHAW, as Commissioner of the Massachusetts  
Department of Transitional Assistance,**

Defendant.

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**PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY RELIEF**

In accordance with Superior Court Rule 9A(e)(1), plaintiffs by their attorney move this Court pursuant to Rule 65 of the Massachusetts Rules of Civil Procedure for a temporary restraining order and preliminary injunction enjoining the Department of Transitional Assistance (DTA) from taking action against Massachusetts Supplemental Nutrition Assistance Program (SNAP) households who spend their SNAP benefits outside of Massachusetts.

In support of this motion, plaintiffs aver that:

1. Plaintiffs will suffer irreparable injury if the requested preliminary relief is not granted.

DTA will not suffer any cognizable harm from entry of the requested relief.

2. The balance of harms strongly favors the granting of an injunction.

3. Plaintiffs are likely to succeed on the merits of their claims that DTA's policies and practices on out-of-state SNAP usage violate federal law.

Boston, MA 02108  
(617) 357-0700 ext. 315

September 30, 2020

**Certificate of Service**

I, Deborah Harris, hereby certify that on this date I e-mailed a copy of the foregoing Emergency Motion for Preliminary Relief and the accompanying Declarations, together with the Complaint in this case and Plaintiffs' Memorandum in Support of their Motion for Preliminary Relief to Koren Christensen, Esq., Department of Transitional Assistance General Counsel.

*Deborah Harris*

September 30, 2020

\_\_\_\_\_  
Deborah Harris

\_\_\_\_\_  
Date

**SUFFOLK, SS.**

**KELLY GLYNN**

**v.**

**AMY KERSHAW**

**DECLARATION OF KELLY GLYNN**

I, KELLY GLYNN, hereby declare under the pains and penalties of perjury that the following facts are true and correct;

1. The facts set forth in the Complaint relating to me are true and correct.
2. Attached as Exhibit 1 is a copy of the Residency Verification Notice dated April 3, 2020 I received from the Department of Transitional Assistance (DTA).
3. Attached as Exhibit 2 is a copy of the verification I sent to DTA on April 27, 2020.
4. Attached as Exhibit 3 is a copy of the second Residency Verification notice dated July 7, 2020 I received from DTA.
5. Attached as Exhibit 4 is a copy of the verification I sent to DTA on July 27, 2020.
6. Attached as Exhibit 5 is a copy of the SNAP Termination Noticed dated July 6, 2020 I received from DTA
7. Attached as Exhibit 6 is a copy of my mother's declaration I sent to DTA on August 10, 2020.

Kelly Ann Glynn

09/24/2020

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

DTA DPC - P.O. Box 4406  
Taunton, MA 02780-0420

# EXHIBIT ONE



## Massachusetts Department of Transitional Assistance

KELLY GLYNN  
30 ALBION ST  
EVERETT MA 02149-1705

04/03/2020

### Residency Verification Notice

Below is the list of verifications you need to give us in order to determine if you can continue to receive assistance with DTA. **You must submit these verifications to: DTA P.O. Box 4406, Taunton MA 02780-0420 by 04/13/2020.** If you do not give the required verifications, your case may be denied or closed.

You must mail your verifications to: DTA P.O. Box 4406, Taunton MA 02780-0420. Please include your name and your Agency ID: 4223671 on every page of the documents you submit.

**Need Help?** If you have any questions or are having problems getting a verification, please call SNAP Worker at (877) 382-2363 as soon as possible.

Residency Verification Notice	
What You Need to Prove	Examples of Proofs You May Provide
<p><b>Massachusetts Residence</b> <b>For Whom:</b> <b>KELLY GLYNN</b></p> <p>Our records indicate that have been using your benefits in <b>Florida</b> during the past several months. You need to provide us with verification that you still reside in Massachusetts. You must provide this verification within 10 days of receiving this notice or your case will be closed. If you are no longer a Massachusetts resident, you may apply for benefits in the state in which you reside.</p>	<p>Current rent receipt, current utility bills, current mortgage statement, current school enrollment verification of children or other acceptable verification of residency.</p>

SNAP Worker  
Phone: (877) 382-2363  
Fax: (617) 887-8765



**EXHIBIT  
TWO**

Agency ID:  
4223671

To DTA,

Except my address verification:  
30 Albion Street, Everett MA. 02149  
I have been back + forth for  
a loved ones medical treatments  
and Covid-19 has disrupted my  
return.

Thank You  
... Kelly Glynn



DEPT 813 8267747220016  
PO BOX 4115  
CONCORD CA 94524



RETURN SERVICE REQUESTED

January 27, 2020



KELLY GLYNN  
30 ALBION ST  
EVERETT MA 02149-1705

FIRST  
U.S.

DTA DPC - P.O. Box 4406  
Taunton, MA 02780-0420

**EXHIBIT  
THREE**



**Massachusetts Department of Transitional Assistance**

KELLY GLYNN  
30 ALBION ST  
EVERETT MA 02149-1705

07/07/2020

**Residency Verification Notice**

Below is the list of verifications you need to give us in order to determine if you can continue to receive assistance with DTA. **You must submit these verifications to: DTA P.O. Box 4406, Taunton MA 02780-0420 by 07/17/2020.** If you do not give the required verifications, your case may be denied or closed.

You must mail your verifications to: DTA P.O. Box 4406, Taunton MA 02780-0420. Please include your name and your Agency ID: 4223671 on every page of the documents you submit.

**Need Help?** If you have any questions or are having problems getting a verification, please call SNAP Worker at (877) 382-2363 as soon as possible.

Residency Verification Notice	
What You Need to Prove	Examples of Proofs You May Provide
<p><b>Massachusetts Residence</b> <b>For Whom:</b> <b>KELLY GLYNN</b></p> <p>Our records indicate that have been using your benefits in <b>Florida</b> during the past several months. You need to provide us with verification that you still reside in Massachusetts. You must provide this verification within 10 days of receiving this notice or your case will be closed. If you are no longer a Massachusetts resident, you may apply for benefits in the state in which you reside.</p>	<p>Current rent receipt, current utility bills, current mortgage statement, current school enrollment verification of children or other acceptable verification of residency.</p>

SNAP Worker  
Phone: (877) 382-2363  
Fax: (617) 887-8765





## EXHIBIT FOUR

### 2020 FOOD STAMP/ SNAP ADVOCACY GUIDE

- About MLRI, Acknowledgements and Copyright
- Introduction
- SNAP Part I - Application and Proofs
- SNAP Part II - General Eligibility Rules
- SNAP Part III - Financial eligibility
- SNAP Part IV - Getting and Using SNAP Benefits
- 87. How much will I get in

## 92. Can I use my EBT benefits out of state?

**ALERT:** Many of the rules in the SNAP Advocacy Guide do NOT apply during the pandemic. Please go to the following COVID-19 & DTA benefits page: <https://www.masslegalservices.org/DTA-COVID-19> until further notice for more information about changes.

You have a right to use your SNAP in all 50 states. SNAP is a federal program that is "interoperable" between states. 7 C.F.R. § 274.8(b)(10). Many SNAP recipients live near and shop in border states - such as New Hampshire, Connecticut, Rhode Island and New York. Often some of the large grocery stores are closer and/or cheaper.

Print  
Forward

If you are temporarily visiting family and friends, you can also use your SNAP benefits while out of state. DTA should not assume you have abandoned your MA residency or threaten to close your SNAP case solely because you are shopping out of state. If you receive a DTA letter saying you have to reprove your MA residency because you used your SNAP out of state, contact an advocate.

Contrary to federal SNAP rules, DTA has a policy of requiring Simplified Reporting and Bay State Cap households to re-prove MA residency when they shop out of state. 7 C.F.R. § 273.12(c)(3). However, if you learn you are listed on a SNAP case in another state, and you are not living with that household report it to DTA. Contact an advocate if DTA refuses to give you SNAP.

After proving my Massachusetts residency <sup>ID: 4223671</sup>  
Along with a letter explaining my Covid-19 shutdown  
out of state. All was approved and I received  
the "Covid-19 Snap Extended Certification Notice -  
"Your recertification period will now end 08/10/21."  
Again, I received the same "proof of residence  
Letter. Thinking it was a duplicate auto glitch,  
I called and the worker would be mailing a form  
to fill and inform the fraud department.  
When form did not arrive, I called and spoke to  
a Leanna Granado who informed me, "The only  
note on my file is "Closed. She would not reveal  
the name of who I spoke to and was insistant to  
apply in the other state - a am not a resident of  
or plan to become one.  
In hope, this will just be used for informational  
purpose only. Please notify me before the date  
planned to renege on Covid-19 Extended Cert.

Proud Bostonian  
...Kelly-A. Glynn 7/30/20

DTA DPC - P.O. Box 4406  
Taunton, MA 02780-0420

EN: 14783

**EXHIBIT**  
**FIVE**



**Massachusetts Department of Transitional Assistance**

KELLY GLYNN  
30 ALBION ST  
EVERETT MA 02149-1705

07/06/2020

Dear Kelly Glynn:

We will stop your SNAP benefits on 08/10/2020 because we did not get the verifications we asked for. At the end of this notice is the list of missing verifications.

If you send us all the verifications requested by 09/08/2020 and you are still eligible, you do not have to reapply for benefits. However, your SNAP benefits may be prorated.

Please let us know if:

- You think we already have your verifications.
- You need help getting your verifications.
- There is a good reason why you didn't turn in your verifications.
- You have a disability or health problem that makes it hard to get your verifications.

**Need help because of disability?** If you have trouble doing something we asked you to do because of a physical or mental health problem, we may be able to give you extra help, or adjust a rule. This is called an accommodation. Call the Department at (781) 388-7300 for help with an accommodation.

Please call DTA at 1-877-382-2363 if you need assistance, if you have any questions about your case or you have trouble reading or understanding this notice.

We must not discriminate due to age, race, color, sex, disability, religion, national origin, sexual orientation, gender identity, or political beliefs. If you think that we have discriminated against you, contact 617-348-8555 to find out how to file a complaint.





## Request for an Appeal

If you have trouble reading or understanding this notice, call DTA at 1-877-382-2363 for help.

**What is an appeal?** If you disagree with a Department of Transitional Assistance (DTA) action, you have the right to appeal. If you appeal, you will have a hearing. Hearings are usually held in your local DTA office. If you cannot come to the office, you can have a phone hearing. An independent hearing officer will make the decision. At least ten days before the hearing, you will get a notice of the time and place of the hearing. At the hearing, a DTA employee will explain the reason for the DTA action. You or someone helping you can then explain why you disagree with the action. After the hearing, the hearing officer will make a decision and mail a copy to you.

**Can I bring someone to help me?** Yes. You can bring anyone you want, including a family member or friend to support or represent you. You can also bring witnesses to testify. You may be able to get free legal help. See the other side of this notice for the name and phone number of the free legal aid office in your area or go to [www.masslegalhelp.org](http://www.masslegalhelp.org) for information about free legal services.

**How do I appeal?** Fill in the spaces below.

I, \_\_\_\_\_, wish to appeal the following decision by DTA \_\_\_\_\_

Your Name (Print) \_\_\_\_\_ SSN \_\_\_\_\_

Address \_\_\_\_\_ Telephone ( ) \_\_\_\_\_

City/ZIP \_\_\_\_\_

**If you have someone to help you with this appeal, please fill in their information:**

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_ Telephone( ) \_\_\_\_\_

City/ZIP \_\_\_\_\_

**If you need special help due to a disability please contact the Division of Hearings at the numbers listed below.**

**Mail this request to DTA – Hearings, P. O. Box 4017, Taunton, MA 02780-0314 or by fax (both sides) to (617) 348-5311.**

**If you are currently receiving benefits --** If we get this request before the date your benefits are to be stopped or lowered, your benefits will continue until the appeal is decided. If you lose your appeal, you will have to pay back these benefits. If you receive SNAP, your benefits will stop when your certification period ends. If you receive TAFDC time limited benefits during your appeal and you lose, the months of benefits you received may count toward your time limit. If you do not want to get benefits during your appeal, check this box.  If you choose not to get benefits during the appeal period, and win your appeal, DTA will pay you any benefits owed.

**What are the deadlines for appealing?** We must get your appeal request no later than 90 days from the date on this notice. But there are exceptions:

- You have 21 days to request a hearing on Emergency Assistance shelter benefits.
- There is no deadline if you appeal the amount of your SNAP benefits during your certification period.
- You have 120 days if DTA fails to act on your request for benefits or services.
- You generally have 120 days if the appeal is about coercive or improper conduct by a DTA employee.
- You only have 30 days if you are appealing because your state tax refund has been held to repay an overpayment of DTA benefits.

**Right to an interpreter --** You have the right to a free interpreter if you need one. The interpreter will keep all of the information about your case confidential. You also have the right to bring your own interpreter. If you need an interpreter, please call us at any of the phone or MassRelay numbers listed in the section below  check this box  and tell us your primary language or dialect: \_\_\_\_\_ and we will find an interpreter for you.

**What if I cannot come on the date of the hearing?** If you need to reschedule, please call at (617) 348-5321 or (800) 882-2017. (If you are Deaf or hard-of-hearing, you can call MassRelay at 711 or (800) 439-2370.)

If you do not reschedule and miss the hearing, we will send you a letter about your rights.

If you had a good reason for missing the hearing, we may be able to give you a new hearing.

## Your Verification Checklist



You must mail your verifications to DTA Document Processing Center – P.O. Box 4406, Taunton, MA 02780–0420. Please include your name and your Agency ID on every page of the documents you submit. Your Agency ID is 4223671.

<b>Residency Verification Notice</b>	
<b>What You Need to Prove</b>	<b>Examples of Proofs You May Provide</b>
<p><b>Massachusetts Residence</b></p> <p><b>For Whom: Kelly Glynn</b></p> <p>Our records indicate that you have been using your benefits in <b>Florida</b> during the past several months. You need to provide us with verification that you still reside in Massachusetts. You must provide this verification within 10 days of receiving this notice or your case will be closed. If you are no longer a Massachusetts resident, you may apply for benefits in the state in which you reside.</p>	<p>Current rent receipt, current utility bills, current mortgage statement, current school enrollment verification of children or other acceptable verification of residency.</p>

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FD. 4223671

8-10-20

EXHIBIT  
SIX

Affidavit of Residence:

Kelly Glynn address is  
my home at 30 Albion St  
Everett, WA 98149

Due to medical conditions  
and high risks states  
makes it impossible to  
travel during pandemic  
Covid 19.

Sincerely,  
Barbara Glynn  
30 Albion St.  
Everett, WA 98149

**COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT**

**SUFFOLK, SS.**

**SUPERIOR COURT  
CIVIL ACTION  
NO.**

**KELLY GLYNN, et al.,**

Plaintiffs,

v.

**AMY KERSHAW,**

Defendant.

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**DECLARATION OF VICTORIA NEGUS**

I, VICTORIA NEGUS, hereby declare under the pains and penalties of perjury that the following facts are true and correct:

1. I am a Policy Advocate at the Massachusetts Law Reform Institute (MLRI) where I specialize in the federal Supplemental Nutrition Assistance Program (SNAP) and the implementation of that program by the Department of Transitional Assistance (DTA).
2. DTA assigns all SNAP households to a certification period and reporting type, which determine the length of the certification period and the reporting rules the household must comply with.
3. DTA assigns most SNAP households to a reporting type called "Simplified Reporting." 106 C.M.R. § 366.110(C). Most Simplified Reporting households must be recertified every twelve months and must complete an Interim Report at the six-month point. Between those two review points, households only have to report if their gross income goes over the gross income

Based on federal data, I roughly estimate that issuance costs per case are less than \$.30 per month. See USDA Food and Nutrition Service, State Activity Report, Table 13, Table 15, <https://fns-prod.azureedge.net/sites/default/files/snap/FY16-State-Activity-Report.pdf>. (last visited Sept. 28, 2020)

10. SNAP households and advocates often contact me for help intervening with DTA to resolve a case. When I hear about an issue several times, it is often a sign that many more SNAP households have experienced or will experience that particular problem and that the problem is a systemic one, not the result of individual worker error.

11. In the past two years, I have helped to resolve at least five situations where DTA terminated or threatened to terminate SNAP benefits because the household used its SNAP benefits out of state. In one of the situations, a hearing officer determined that the client should not have been terminated and directed DTA to reinstate the client's benefits. In the other situations, DTA agreed that it should not have taken action against the household, and either withdrew its demand that the household re-prove residency or reinstated the case and issued SNAP back to the termination date.

12. Based on my experience, it is reasonable to conclude there are at least 100 such cases a year and quite likely many more.

13. One of the cases I resolved was the case of a disabled SSI beneficiary who goes to Florida every winter with his landlord and uses his SNAP while in Florida. He is a Bay State CAP participant with a 36-month certification period who is not required to report any changes to DTA and is certainly not required to provide DTA with re-verification of his Massachusetts residency. This was the third year in a row that DTA took action to terminate his SNAP while he was in Florida, and I had to intervene with DTA to get the termination stopped or rescinded.

14. Another case I resolved was the case of a senior who went to Florida to care for his daughter, who had a sudden and severe medical emergency. DTA had assigned this individual to EDSAP. In violation of the EDSAP rules, DTA required him to re-verify his residency and then terminated him for not providing sufficient re-verification. I had to intervene to get the termination rescinded and ensure SNAP was issued back to the date that the case was closed.

15. To my knowledge, DTA has not issued any policy directives available to the public modifying the policies and procedures specified in DTA Operations Memo 2013-34 (July 26, 2013). I do not know if DTA has made changes but has not notified the public of those changes. However, it is clear that DTA continues to take action against households who use their benefits out of state.

16. In February 2020, a DTA senior staff person told me that DTA planned to make changes to its eligibility system regarding out-of-state usage to resolve issues that I had raised. However, the staff person did not know when the changes would actually be made.

September 30, 2020



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Date

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Victoria Negus