



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

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Favorable with Amendments – SB 2

Department of Human Services - Electronic Benefits Transfer Cards - Fraud (Prevent Electronic Benefits Theft Act of 2023)

Hearing of the Senate Finance Committee, February 23, 2023

Michelle S. Madaio, Homeless Persons Representation Project

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal services organization that provides free legal representation to people who are experiencing homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents individuals and families in accessing Supplemental Nutrition Assistance Program (SNAP), Temporary Cash Assistance (TCA), and Temporary Disability Assistance Program (TDAP) benefits through administrative appeals and advocacy. Over the last year HPRP, has worked with an unusually high number of individuals and families whose SNAP, TCA, and/or TDAP were electronically stolen from their Electronic Benefit Transfer (EBT) card through no fault of the family and despite the family maintaining exclusive possession of their EBT card and PIN. The Department has refused to replace benefits to these victims. This has resulted in individuals and families suffering months without the food and income they so desperately need and are entitled to receive. These increased financial, food, and housing insecurities are having a detrimental impact on the health and well-being of Maryland's most vulnerable families. HPRP supports SB 2 with amendments because we need to make families whole and take immediate action to prevent theft from happening in the future.

SB 2 makes low-income families whole by restoring benefits lost due to theft.

HPRP has worked with far too many families in the past year who have suffered irreparable harm through the theft of their benefits and the Department's refusal to replace benefits. SNAP, TCA, and TDAP are all entitlement programs, meaning if a family's total household income falls below a certain level they are entitled to receive basic food and/or cash assistance (as long as other program requirements are met). The purpose of these anti-poverty programs is to help families avoid hunger and prolonged periods of housing instability due to structural inequities. The families victim to this theft have had to send their children to school hungry. Single moms have given up their food to allow their children to eat. The stress of not knowing how to pay bills, receiving an eviction notice or utility shut off notice, has had a detrimental and irreversible impact on families' health and wellbeing. While you can't go back in time to feed your family, SB 2 is needed to restore benefits to victims in the past and future.

Card skimming disproportionately impacts people living in poverty and requires immediate action to strengthen security of EBT cards.

EBT cardholders do not have the same protections when theft occurs as compared to people whose money is on a bank debit or credit card. The magnetic strip on the EBT card, without the microchip technology and ongoing monitoring for suspicious activity, make it an inferior financial product

and more vulnerable to theft.¹ It is inequitable for families that receive SNAP, TCA and TDAP to be treated like inferior or second-class consumers compared to the rest of Marylanders. Low-income Marylanders living in poverty experienced an exponential rise in theft of benefits in 2022 compared to the prior year: at least 2,334 households had SNAP and cash benefits stolen, totaling \$1.7 million in stolen benefits. This is 18x more theft than occurred in 2021 (134 households) and demonstrates that electronic theft and card skimming are sophisticated crimes that are not being adequately addressed through the response thus far. SB 2, with amendments, would reduce the likelihood of future theft by enhancing security of EBT cards, including the use of smart chip technology that will make the card more difficult to tamper with through skimming and cloning.

HPRP supports SB 2 with amendments that would:

- (1) Require immediate response to: provide a new EBT card and restore benefits to households that experienced theft. A simple and fast timeframe with as few administrative barriers as possible is critical to ensure a family does not experience prolonged hunger, face eviction, receive utility shut off notices, accumulate late fees on past due bills, among other economic crises caused by gap in benefits. It also ensures the family does not experience an indefinite, unclear and bureaucratic run around after a theft occurs.
- (2) Create a dispute resolution process for a household if the Department determines no restoration is due, including a process for the household to receive their benefits pending the appeal to avoid the grave harm caused by gap in benefits. The appeal process in the bill is consistent with the Department's current appeal process for benefit terminations.
- (3) Prohibit the Department from requiring a police report as a condition of receiving restoration of benefits. This is consistent with federal guidance around reissuance of benefits, which does not require police reports, and consistent with the process identity fraud victims using self-affidavits. It also is trauma-informed, by giving families the option of whether they want to file a report and recognizes that not all families have safe and equal interactions with law enforcement, not to mention inaccessibility of police stations to some families with disabilities or in rural areas, cost-prohibitive fees associated with filing a report for victims of theft.
- (4) Makes victims whole by providing retroactive benefits from March 15, 2020 to the effective date of the bill;
- (5) Requires Department to invest in EBT cards with embedded microchips and enhance cardholder security features by October 1, 2023, among other critical protections that will reduce future theft.

HPRP strongly urges the Committee to issue a favorable report on HB 502. If you have any questions, please contact Michelle Madaio (she/her), Director – Economic Justice at (410) 716-0521 or mmadaio@hprplaw.org.

¹ Brian Krebs, Krebs on Security (October 18, 2022), available at <https://krebsonsecurity.com/2022/10/how-card-skimming-disproportionally-affects-those-most-in-need/>