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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
1:00 PM

FAVORABLE WITH AMENDMENTS

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Health and Benefits Equity Project advocates to protect and expand access to healthcare and safety net services for Marylanders struggling to make ends meet. We support policies and practices that are designed to eliminate economic and racial inequities and enable every Marylander to attain their highest level of health. **PJC stands in strong support of SB 2 with the amendments described below.** SB 2 would require the Department of Human Services (DHS) to reimburse a beneficiary of any benefits lost due to fraudulent use of the beneficiary's Electronic Benefits Transfer (EBT) card. It would also require DHS to investigate and identify EBT fraud as well as give preference to certain vendors in the procurement process for EBT distribution or administration.

EBT skimming theft is a crisis that has devastated Maryland's low-income individuals and families receiving SNAP, TCA and TDAP. In Calendar Year 2022, at least 2,334 households receiving the Supplemental Nutrition Assistance Program (SNAP), Temporary Cash Assistance (TCA) and the Temporary Disability Assistance Program (TDAP) had over \$1.6 million in benefits stolen. More than 20 times as many households had their benefits stolen in 2022 as compared to Calendar Year 2021 (137 households). Individuals stealing benefits attach a skimming device to point-of-sales (POS) machines and PIN pads to steal EBT card numbers. These illegal devices look like they are part of the machine or pin pad, hard to identify and can be placed in less than one minute. When unsuspecting EBT cardholders swipe their cards in the POS, their card number and PIN can then be cloned and use to drain funds from their account from any state. This crime leaves the victims, including families with young children, seniors and individuals with disabilities, feeling violated. Their trauma is compounded further by DHS's policy decision to not replace these stolen benefits.

The loss of SNAP, TCA and TDAP benefits from a household means that the individual or family cannot afford food, rent and utilities. Additionally, victims accrue late fees for missed rent and utility bills, driving them deeper into poverty. Marylanders need immediate relief from this crisis and SB 2 would provide that relief.

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Proposed Amendments

While we support the intention and spirit of SB 2, we have proposed amendments below to strengthen the legislation:

Reimbursement timeframe, information required from household, and appeal process for denials. DHS has failed to restore benefits on its own to individuals and families, even in instances where the card activity and withdrawals clearly indicate that fraud has occurred. Though benefits recipients have the right to appeal any agency decision, an aggressive timeframe for investigation, restoration of benefits and appeal rights are necessary. We propose amendments to:

- Require DHS to notify the household in writing of the local department's decision to restore benefits (and the amount restored) and their appeal rights within a short timeframe after the household notifies DHS of the loss of benefits due to theft. DHS should also be required to provide the household with a new EBT card by overnight mail or in person to meet the timeframe.
- When an appeal to a denial to restore benefits has been received, require DHS to automatically restore benefits for which the household claims entitlement while the hearing is pending. If the hearing decision is unfavorable to the household, any benefits improperly restored may be recovered by the local department by reducing the household's benefit at a rate that may not exceed the lesser of \$10 or 5% of the household's monthly allotment of benefits. This would allow households to meet urgent needs for food and pay rent and utilities without significant delays or financial hardship.
- Clarify that there will be no limitation on the number of months of stolen benefits that can be restored. This would ensure that households who experience repeated skimming theft are not locked into an arbitrary limitation on benefits to which they are entitled.
- Households should not be required to provide a police report. We appreciate that SB 2 does not require a household to file a police report but believe that there should be language in the bill that states explicitly that DHS and the local departments cannot require a police report as a condition for restoration of benefits.
- Require DHS to reimburse households that experienced EBT theft from 2020 to the bill effective date. This would allow individuals who experienced skimming theft when the initial spike occurred in 2020 to be reimbursed.

EBT Card Security Enhancements and Theft Prevention. EBT cards lack standard security features, such as embedded microchip technology and cardholder authorization options, that financial institutions provide to credit and debit cardholders. This lack of standard security measures that all consumers should be entitled to leaves benefits recipients vulnerable to repeated skimming theft as their card number and pin can be easily stolen through this crime even if they change the pin or receive a new card number. We propose the following amendments to address these issues:

- Require DHS to invest in EBT cards with embedded microchips and enhance cardholder security features. EBT cards are not secure and households will continue to experience skimming theft unless DHS prioritizes investing in security enhancements.

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SB 2, with the amendments described above, would bring justice and important consumer protections to Marylanders who receive SNAP, TCA and TDAP. For these reasons, the Public Justice Center urges the committee to issue a **FAVORABLE** report for **SB 2 with the amendments above incorporated**. If you have any questions about this testimony, please contact Ashley Black at 410-625-9409 ext. 224 or blacka@publicjustice.org.