

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Human Resources
(DLS Control No. 14-305)**

Overview and Legal and Fiscal Impact

This regulation, in compliance with the federal Middle Class Tax Relief and Job Creation Act of 2012, prohibits Temporary Cash Assistance (TCA) recipients from using electronic benefit transfer (EBT) cards at any establishments whose primary purpose is gambling, adult entertainment, or the sale of liquor, wine, and beer. In addition, the regulation requires TCA recipients to sign a form developed by the Family Investment Administration acknowledging this prohibition and agreeing to abide by specified conditions.

This regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Human Resources:

Family Investment Administration: Family Investment Program: COMAR 07.03.03.16

Legal Analysis

Background

The federal Middle Class Tax Relief and Job Creation Act of 2012 (Pub.L. 112–96, 126 Stat. 156), in part, requires states to maintain policies and practices necessary to prevent the use of state Temporary Assistance for Needy Families assistance in any transaction in any (1) liquor store; (2) casino, gambling casino, or gaming establishment; or (3) retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. States that fail to enforce this requirement face administrative penalties (e.g. a reduction of up to 5% of the state family assistance grant the non-compliant state receives from the federal government).

Administered by the Department of Human Services, the Family Investment Program (FIP) provides assistance to individuals and families with children. The assistance program components under the FIP include Welfare Avoidance Grants, TCA, Office of Home Energy Programs, and alternative programs. This regulation is intended to put Maryland in compliance with federal law.

Summary of Regulation

This regulation amends COMAR 07.03.03.16, which concerns the EBT system operated by the department under agreement with the U.S. Department of Health and Human Services and pursuant to U.S. Department of Agriculture regulations. New Regulation .16C prohibits a TCA recipient from accessing his or her TCA benefits through EBT cards, or using EBT cards at an automated teller machine or point of sale machine, in any establishment whose primary purpose is gambling, adult entertainment in which individuals disrobe for an audience, or the sale of beer, wine, and liquor. New Regulation .16D requires a TCA recipient or applicant to sign a form developed by the Family Investment Administration indicating that the individual understands the prohibition under § C and agrees to abide by the conditions of Regulation .16, including (1) specified restrictions, including up to permanent revocation, for violations of the regulation; (2) the requirement that recipients whose access to TCA benefits on the EBT cards has been revoked to provide checking or savings account information to the Administration or EBT staff for direct deposit of assistance benefits; (3) the issuance of a paper check to TCA recipients unable to provide checking or savings account information; (4) the policy that cash benefits on direct deposit may not be replaced if lost or stolen; (5) the policy that a paper check mailed to a recipient may be replaced one time if the recipient reports, within 30 days of issuance, that the check was not received or has been stolen; and (6) the requirement that a recipient requesting a replacement TCA paper check due to theft must provide a police report of the theft.

Legal Issue

This regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites § 5-207 and Title 5, Subtitle 3 of the Human Services Article and Chapter 469 of the Acts of 2009 as authority for the regulations. Section 5-207 authorizes the Executive Director of Family Investment to adopt regulations necessary to carry out the duties imposed on the Executive Director by law. Title 5, Subtitle 3 concerns the FIP, generally. More specifically, § 5-303 requires the Secretary of Human Services to implement a FIP that meets the requirements of the subtitle and federal law and adopt regulations to carry out the subtitle. The department also cites the federal Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96) as authority for the regulations.

The cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

As submitted, the Statement of Purpose does not reflect the new requirement that TCA recipients sign a form developed by the Family Investment Administration acknowledging prohibited EBT card uses and agreeing to abide by the regulation's conditions. The department indicated it will amend the Statement of Purpose to reflect the proposed regulation. This analysis reflects the department's intent.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has no fiscal impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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