

HOUSE BILL 1434

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4r3189
CF 4r3256

By: **Delegate R. Lewis**

Introduced and read first time: February 9, 2024

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2024

CHAPTER _____

1 AN ACT concerning

2 **Department of Human Services – Electronic Benefits Transfer Cards –**
3 **Restoration of Benefits**

4 FOR the purpose of ~~authorizing, rather than~~ requiring, subject to a certain provision of law,
5 the Department of Human Services to reimburse a beneficiary for any benefits lost
6 due to the fraudulent use of the beneficiary's Electronic Benefits Transfer card and
7 restore the benefits without further action from the household; requiring the
8 Department to reimburse a beneficiary on or before a certain date for any benefits
9 lost due to the fraudulent use of the beneficiary's Electronic Benefits Transfer card
10 that occurred between certain dates and requiring the beneficiary to submit a claim
11 to the Department by a certain date to be eligible for reimbursement; requiring the
12 Department to establish a workgroup to study and make findings and
13 recommendations to the General Assembly on a dedicated funding stream for the
14 restoration of stolen benefits from certain assistance programs; and generally
15 relating to electronic benefits.

16 BY repealing and reenacting, with amendments,
17 Article – Human Services
18 Section 5–609 and 5–610
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2023 Supplement)

21 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 WHEREAS, Maryland and the United States are experiencing widespread,
2 organized theft of state and federal public benefits from individuals and families; and

3 WHEREAS, Maryland is committed to protecting federal entitlements for
4 Marylanders stolen after January 1, 2021, and beyond; and

5 WHEREAS, Maryland is committed to reducing the risk of benefits being stolen from
6 Maryland individuals and families; and

7 WHEREAS, Both State and federal funds can be used to replace stolen benefits; and

8 WHEREAS, Federal resources for stolen SNAP benefit replacement are planned to
9 end on September 30, 2024; and

10 WHEREAS, The Department of Human Services can only restore benefits subject to
11 an appropriation for the purposes of an electronic benefit theft restoration; now, therefore,

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Human Services**

15 5–609.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) (i) “Personal identifying information” has the meaning stated in §
18 8–301 of the Criminal Law Article.

19 (ii) “Personal identifying information” includes an Electronic
20 Benefits Transfer card number or personal identification number.

21 (3) “Skimming practices” includes:

22 (i) use of a skimming device, including a scanner, skimmer, reader,
23 or other electronic device used to access, read, scan, obtain, memorize, or store, temporarily
24 or permanently, personal identifying information; or

25 (ii) adding malicious code illegally to a website to capture Electronic
26 Benefits Transfer card data or personal identifying information.

27 (4) “Theft” includes:

28 (i) physical theft of an Electronic Benefits Transfer card;

29 (ii) identity fraud, as defined in § 8–301 of the Criminal Law Article;

30 and

1 (iii) theft through skimming practices.

2 (5) “Two-way fraud alert” means the capability of the Department to
3 communicate with households, and of households to communicate with the Department,
4 through text messaging regarding potential fraudulent use or theft of an Electronic
5 Benefits Transfer card.

6 (b) (1) If an investigation by the Department shows a household’s correctly
7 issued benefits were lost due to theft, the Department [automatically shall] ~~MAY SHALL~~,
8 **SUBJECT TO § 5–610 OF THIS SUBTITLE**, restore the benefits without requiring further
9 action from the household.

10 (2) As soon as practicable, but not later than 10 days after a household
11 informs the Department of the loss of benefits due to theft, the Department shall:

12 (i) notify the household in writing of the Department’s decision as
13 to whether to restore benefits, the amount of benefits to be restored, and the right to and
14 method of requesting a hearing on the Department’s decision in accordance with subsection
15 (c) of this section;

16 (ii) if the Department determines that the household receives
17 benefits, restore benefits to the household in the amount of benefits that was lost; and

18 (iii) provide the household with a new Electronic Benefits Transfer
19 card.

20 (3) The Department may not:

21 (i) require a household to provide a police report as a condition of
22 restoration of benefits; or

23 (ii) limit the number of months in which a household can receive
24 restoration of benefits lost due to theft.

25 (c) (1) If a household disputes the amount of benefits restored or the
26 Department’s determination that no restoration is due, the household may request a
27 hearing with the Department within 90 days after the date of the Department’s
28 determination.

29 (2) If a household requests a hearing under this subsection, the
30 Department shall restore the benefits for which the household claims entitlement while the
31 hearing is pending.

32 (3) If the hearing decision is unfavorable to the household, any benefits
33 improperly restored under paragraph (2) of this subsection may be recovered by the

1 Department by reducing the household's benefit at a rate that may not exceed the lesser of
2 \$10 or 5% of the household's monthly allotment of benefits.

3 (d) In the procurement process for electronic benefits distribution or
4 administration, the State or State-aided or State-controlled entity shall give preference to
5 a vendor that:

6 (1) holds a form of insurance that can be used to reimburse a beneficiary
7 for identity fraud or theft; and

8 (2) provides identity access protections to protect an eligible beneficiary
9 against identity fraud and theft, which may include multifactor authentication.

10 (e) The Department shall coordinate with vendors to take available precautions
11 to reduce the vulnerability of Electronic Benefits Transfer cards to theft by utilizing
12 enhanced technology.

13 **(F) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE**
14 **DEPARTMENT ~~MAY~~ SHALL RESTORE BENEFITS TO A HOUSEHOLD DETERMINED**
15 **UNDER SUBSECTION (B) OF THIS SECTION TO BE ELIGIBLE FOR RESTORATION OF**
16 **BENEFITS, AS PROVIDED FOR BY AN APPROPRIATION FOR PURPOSES OF**
17 **ELECTRONIC BENEFIT THEFT RESTORATION.**

18 **[(f)] (G)** On or before December 1 each year, the Department, in consultation
19 with local law enforcement agencies in the State, shall report to the General Assembly, in
20 accordance with § 2-1257 of the State Government Article, on:

21 (1) the accessibility and security of Electronic Benefits Transfer cards;

22 (2) actions taken to reduce the fraudulent use of Electronic Benefits
23 Transfer cards;

24 (3) the number of Electronic Benefits Transfer cards reissued due to fraud
25 in the immediately preceding year;

26 (4) the number of households reporting theft of benefits, by jurisdiction and
27 program;

28 (5) the number of households eligible for expedited Supplemental
29 Nutrition Assistance Program benefits that reported loss of benefits due to theft, by
30 jurisdiction and program;

31 (6) the total dollar amount of benefits reported lost due to theft, by
32 jurisdiction and program;

1 (7) the number of determinations of theft made by the Department, by
2 jurisdiction;

3 (8) the number of determinations made by the Department that theft did
4 not occur, by jurisdiction;

5 (9) the number of households reimbursed for benefits lost due to theft and
6 the total dollar amount of benefits restored, by jurisdiction and program;

7 (10) the average and maximum length of time, in days, between the report
8 of theft and the restoration of benefits, by jurisdiction;

9 (11) the number of hearings requested and the number of households that
10 received a restoration of benefits as an outcome of a hearing, by jurisdiction; and

11 (12) demographic data on households that experienced theft, including race,
12 gender, number of households with children under the age of 18 years, and number of
13 households with a member at least 60 years old.

14 5–610.

15 (a) The Department [may] **SHALL**:

16 (1) restore benefits to any household that lost benefits due to theft that
17 occurred between January 1, 2021, and [October 1, 2022] **SEPTEMBER 30, 2024**, both
18 inclusive, provided that the Department confirms the household lost benefits due to theft
19 during that time period; and

20 (2) support innovative practices required to support beneficiaries during
21 the time period between the reporting of the loss of benefits due to theft and the restoration
22 of benefits.

23 (b) On or before [September 1, 2023] **DECEMBER 31, 2025**, the Department
24 shall issue benefits to households eligible to receive funds under subsection (a) of this
25 section.

26 **(C) ANY CLAIM FOR THE RESTORATION OF LOST BENEFITS DUE TO THEFT**
27 **THAT OCCURRED BETWEEN JANUARY 1, 2021, AND SEPTEMBER 30, 2024, BOTH**
28 **INCLUSIVE, SHALL BE SUBMITTED TO THE DEPARTMENT ON OR BEFORE**
29 **SEPTEMBER 30, 2025.**

30 **(D) ANY RESTORATION OF LOST BENEFITS REQUIRED UNDER THIS SECTION**
31 **IS SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That;

1 (a) The Department of Human Services shall establish a workgroup to study and
2 make recommendations on a dedicated funding stream for the restoration of stolen benefits
3 from the Supplemental Nutrition Program and Temporary Assistance for Needy Families
4 program.

5 (b) On or before December 1, 2024, the Department shall report to the General
6 Assembly, in accordance with § 2-1257 of the State Government Article, on the findings
7 and recommendations of the workgroup.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.