



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

HB 1434

**Department of Human Services – Electronic Benefit Transfer Cards – Restoration of Benefits
Before the House Appropriations Committee**

Hearing on March 5, 2024

Position: Unfavorable

Maryland Legal Aid submits its written and oral testimony opposing the changes proposed in HB 1434. We thank the bill sponsor, Delegate Robbyn Lewis, for this opportunity to testify.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents, and each year we assist thousands of Maryland residents that rely on Supplemental Nutrition Assistance Program (SNAP), Temporary Disability Assistance Program (TDAP) and Temporary Cash Assistance (TCA) benefits. These benefits provide a safety net to impoverished Marylanders.

MLA asks that the Committee report **unfavorably** on HB1434, which would undermine existing provisions in the Maryland Annotated Code that were passed by the General Assembly last year to strengthen these safety net type benefits. Under the laws enacted last year, when the benefits are stolen from eligible households, the Department of Human Services (Department) will replace those benefits. HB 1434 would make the replacement of benefits discretionary and/or contingent on budgeting constraints.

Recipients of these benefits are generally the disabled, members of low income households, the elderly, and children. They rely on the safety net to maintain housing and food for themselves and their families. Sadly, the Department reports that approximately \$20 million has been stolen in these safety net benefits from Marylanders over the past few years.

Maryland has no security measures in place to prevent benefit theft. MLA clients have reported that within minutes of having used their card to make purchases at local stores, benefits were stolen via a purchase made in a distant state. When we compare such benefit theft to similar activity on bank debit or credit cards, the difference in protections for fraudulent activity in banking versus public benefits is stark. In the banking industry, such patently fraudulent activity would result in immediate screening and alerts to their customers, yet Maryland has no system set-up to identify fraud as it occurs. Maryland recipients of SNAP and cash assistance receive no text message to alert them regarding suspicious activity regarding EBT transactions, even though the existing law defines the term, “two-way fraud alert.” The state has not implemented a two-way fraud alert system, despite the language in the existing law and despite the very real and dangerous economic consequences to our clients.

Maryland needs to focus on theft prevention, rather than allow eligible recipients to suffer benefit loss at the hands of thieves.

Additionally, existing EBT cards do not have CHIP technology, further placing the benefits at enhanced risk of theft.¹ The private debit and banking industry² routinely issue CHIP cards to customers, and the Consolidated Appropriations Act includes a directive that EBT security protections shall evolve to match the protections afforded debit and credit card users. We urge Maryland to add protections to the existing law, not remove them.

In 2023 Maryland became the first state in the U.S. to create a plan to combat SNAP theft.³

If HB 1434 is enacted, and we reverse direction, the very poorest Marylanders could experience destitution, with no opportunity for recompense. We also implore the legislature to enact protections to prevent benefit theft. Such security measures as CHIP technology and fraud alerts would stop the theft before it occurs, reducing the need for reimbursement. Please do not enact HB 1434.

If you have questions please contact Gloria Brown, Esq., Staff Attorney, gvbrown@mdlab.org, or 410-951-7729.

¹ “Senator urges USDA to require updated technology for SNAP cards,” <https://www.nbcnews.com/news/us-news/skimming-rise-senator-urges-usda-require-updated-technology-snap-cards-rcna74908>

² The protections of the Electronic Funds Transfer Act (EFTA), 15 U.S.C. §§1696 et seq., which generally protect holders of electronic debit cards, do not apply to the holders of EBT cards, and have not protected the EBT-card holder since 1996. Since Congress amended EFTA in 1997, with the directive to enact regulations regarding the replacement of SNAP benefits and to afford the EBT-theft victims the same protections afforded those who receive paper checks, no new laws issued until 2023. The 2023 law required benefit reimbursement for stolen funds but spawned no EFTA-type measures to protect against theft. Specifically, via the Consolidated Appropriations Act of 2023, Title IV, §501, Congress has directed that funds appropriated under The Food and Nutrition Act of 2008 shall be used to require states to replace benefits that have been stolen through card skimming and card cloning. The law was intended to be a stopgap until permanent laws and regulations could be enacted. In this regard, the proposed changes appear premature since Congress will likely act to extend its protections and intensify its efforts to bring states into compliance.

³³ <https://www.marylandmatters.org/2023/03/04/maryland-is-the-first-state-in-the-country-with-a-plan-to-replace-stolen-snap-benefits/>