



**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 Senate Finance Committee

Hearing on March 21, 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) provides free legal services to the State’s low-income and vulnerable residents. Each year we assist thousands of Maryland residents who 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.

In 2023 Maryland became the first state in the U.S. to create a plan to combat SNAP theft, providing even greater protections than those mandated by the federal government. HB 1434 would make the replacement of benefits contingent on budgeting constraints. Though the governor reportedly will request funding to protect the citizenry, the request may be cut either this year or next, leaving many in the situation faced in 2022. At that time, there was no allowance provided for benefits stolen by EBT-skimming.

Recipients of these benefits are generally the disabled, members of low-income households, the elderly, and children. For example, the USDA reported in 2020 that 34% of the Maryland SNAP households included children, 32% listed elderly people as household members, 32% listed non-elderly disabled people as household members, and only 17% contained healthy, non-elderly, adult members.¹ These vulnerable individuals rely on the safety net to maintain housing and food for themselves and their families. Sadly, the Department reports that at least \$22 million has been stolen in these safety net benefits from Marylanders over the past few years.

Maryland has minimal 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 non-contiguous 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-

¹ See USDA, Food and Nutrition Service, U.S. Department of Agriculture, “Demographic characteristics” <https://www.fns.usda.gov/SNAP-State-characteristics/2020>

up to block out-of-state card usage, for example. Yes, Marylanders can receive text messages identifying card usage after it occurs if they have a phone with texting ability, but there is nothing that allows for suspicious activity to be blocked at the time of the illegal purchase. In sum, Maryland recipients of SNAP and cash assistance receive no “two-way fraud alert,” with an option to either allow or block the attempted purchase.

Additionally, existing EBT cards do not have CHIP technology, further placing the benefits at enhanced risk of theft.² The private debit and banking industry 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.³ Though the state intends to observe California’s roll-out of chip-equipped EBT cards next month, DHS contemplates a window of 18 months before Maryland will have full security measures in place.⁴ We urge Maryland to add protections to the existing law, not remove them.

Maryland needs to focus on theft prevention, rather than allow eligible recipients to suffer benefit loss at the hands of thieves. Theft prevention alone could save both Maryland and the victims of EBT theft millions of dollars.⁵

If HB 1434 is enacted, and we reverse direction, the most vulnerable Marylanders could experience hunger and homelessness, with no opportunity for immediate recompense except for possible litigation either individually or as a class to seek redress for any state negligence issues. Please do not enact HB 1434.

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

² “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>; See also <https://keyt.com/news/california/2023/11/10/california-launches-new-ebt-card-protection-app/>

³ 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/>

⁴ See DHS written testimony regarding HB 1434.

⁵ <https://www.newsday.com/long-island/crime/electronic-benefits-transfer-cards-scammers-p8mmf53a>