

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1434
Appropriations

(Delegate R. Lewis)

Finance and Budget and Taxation

**Department of Human Services - Electronic Benefits Transfer Cards -
Restoration of Benefits**

This bill requires the Department of Human Services (DHS), by December 31, 2025, to restore benefits to any household that lost benefits due to theft that occurred between January 1, 2021, and September 30, 2024. Any claim for restoration of benefits lost due to theft during this period must be submitted to DHS by September 30, 2025. Even so, restoration of lost benefits is subject to the limitations of the State budget. For benefits lost due to theft outside of this specified period, DHS, subject to the limitations of the State budget, must restore such benefits as provided for by an appropriation made for electronic benefit theft (EBT) restoration. Uncodified language requires DHS to establish a workgroup to study and make recommendations on a dedicated funding stream for the restoration of stolen benefits, as specified, and submit a report on the findings and recommendations of the workgroup to the General Assembly by December 1, 2024. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances, as discussed below. The FY 2025 budget as introduced includes sufficient funds (a total of \$27.9 million) for DHS to restore lost EBT benefits, as discussed below. DHS can handle the bill's requirements for the workgroup with existing resources.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law:

Maryland Electronic Benefit Transfer System

DHS operates a Maryland Electronic Benefit Transfer System under agreement with the U.S. Department of Health and Human Services and pursuant to U.S. Department of Agriculture regulations. The Maryland EBT Card is called the Independence Card. It operates like a bank debit card and holds the benefits that are deposited into a recipient's account. DHS programs – Supplemental Nutrition Assistance Program (SNAP), Temporary Cash Assistance (TCA), Temporary Disability Assistance Program (TDAP), Public Assistance to Adults (PAA) – use the EBT card to provide monthly benefits to eligible recipients.

Restoration of Electronic Benefits

Chapters 171 and 172 of 2023 established an EBT theft restoration program in DHS. DHS must automatically restore the benefits of a household without requiring further action from the household if a DHS investigation shows a household's correctly issued benefits were lost due to theft. As soon as is practicable, but within 10 days after a household informs DHS of the loss of benefits, DHS must:

- notify the household in writing of the decision as to whether to restore benefits, the amount of benefits to be restored, and the right to and method of requesting a hearing on the decision, as specified;
- restore benefits to the household in the amount of benefits lost (if DHS determines that the household receives benefits); and
- provide the household with a new EBT card.

DHS may not (1) require a household to provide a police report as a condition of restoration of benefits or (2) limit the number of months in which a household can receive restoration of benefits lost due to theft.

DHS may restore benefits to any household that lost benefits due to theft that occurred between January 1, 2021, and October 1, 2022, if DHS confirms the household lost benefits due to theft during that time period; and support innovative practices required to support beneficiaries during the time period between reporting theft of benefits and the restoration of benefits.

However, DHS must issue benefits to households eligible to receive funds under the provisions specified above (for losses between January 1, 2021, and October 1, 2022) by September 1, 2023.

Right to Administrative Hearing and Benefits

If a household disputes the amount of benefits restored or a DHS determination that no restoration is due, the household may request a hearing with DHS within 90 days after the date of the determination. If a household requests a hearing, DHS must automatically restore the 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 DHS by reducing the household's benefit at a rate of up to the lesser of \$10 or 5% of the household's monthly allotment of benefits.

Procurement Process for Electronic Benefits Distribution or Administration

In the procurement process for electronic benefits distribution or administration, the State or State-aided or State-controlled entity must give preference to a vendor that (1) holds a form of insurance that can be used to reimburse a beneficiary for identity fraud or theft and (2) provides identity access protections to protect an eligible beneficiary against identity fraud and theft, which may include multifactor authentication.

Reporting Requirements

By December 1 each year, DHS, in consultation with local law enforcement agencies in the State, must report specified information to the General Assembly, including, among other things, the accessibility and security of EBT cards, actions taken to reduce the fraudulent use of EBT cards, and statistics about households reporting theft of benefits, and reimbursement of benefits lost, by jurisdiction and program. DHS' December 2023 [report](#) includes the required specified information from March 1, 2023, through October 31, 2023.

Federal Law – Temporary Replacement Benefits for Electronic Benefit Theft Card Fraud

The federal Consolidated Appropriations Act of 2023, enacted in December 2022, requires the U.S. Department of Agriculture Food and Nutrition Service to issue ongoing guidance on the security measures states must take to detect and prevent EBT card fraud through card skimming, card cloning, or other similar fraudulent methods, and to issue regulations on requiring state agencies to implement procedures for replacement benefits to SNAP households victimized by EBT card fraud.

The Act also requires states to issue replacement SNAP benefits stolen from households between October 1, 2022, and September 30, 2024, due to card skimming, card cloning, or

other similar fraudulent methods (and authorizes the use of federal funds to do so). States must replace the lesser of the full amount stolen or two months of stolen benefits. Each state agency is limited to providing replacement benefits twice per federal fiscal year for each household. However, the Act does not apply to stolen benefits from EBT cards used in other DHS cash assistance programs, such as TCA, TDAP, or PAA, and is limited in scope to the aforementioned time period.

On February 27, 2023, DHS received federal approval of its plan to reimburse SNAP benefits to victims of EBT card fraud, with an implementation date of March 18, 2023. Under DHS's plan, households had 90 days to submit a retroactive claim. For new claims, households have 45 calendar days after the date the household discovered the theft. Claims may be submitted online, by mail, or at local department of social services. A determination on the claim is to be made within 10 days of the claim submission, with benefits paid for approved claims within three calendar days of approval.

Restoration of Benefits – Fiscal 2025 Budget

The fiscal 2025 budget as introduced includes \$27.9 million in general/federal funds for DHS for benefit restoration. DHS general fund expenditures are estimated to be \$26.3 million (\$10.9 million for restoration of SNAP benefits and \$15.4 million for restoration of cash assistance benefits), with \$1.6 million in federal funds for which the authorization terminates September 30, 2024. DHS advises that funds included in the fiscal 2025 budget as introduced are sufficient to provide the required restoration of benefits.

However, based on updated information on recent trends for both SNAP and cash assistance restoration of benefits claims, the Department of Legislative Services (DLS) anticipates that DHS benefit restoration expenditures will likely total only \$18.0 million in fiscal 2025 (\$14.5 million in general funds, and \$3.5 million in federal funds for which the authorization terminates September 30, 2024). Of the \$14.5 million in general funds, \$10.6 million is for restoration of SNAP benefits, and \$3.9 million is for restoration of cash assistance benefits.

Restoration of Benefits – Fiscal 2026 and Out-years

Beginning in fiscal 2026, the first full fiscal year in which federal funding is no longer available for SNAP reimbursements, DHS estimates that general fund expenditures increase by \$24.8 million annually for restoration of SNAP and cash assistance benefits. Because of the trend of lower estimated costs noted above, DLS estimates that DHS general fund expenditures will be \$18.0 million annually beginning in fiscal 2026 for restoration of benefits (\$14.1 million for SNAP benefits, and \$3.9 million for cash assistance benefits).

State Expenditures: The bill requires restoration of benefits lost due to theft between January 1, 2021, and September 30, 2024 (extended from October 1, 2022). However, this largely reflects a *federal* requirement that states must issue replacement SNAP benefits stolen during this time period. The bill also requires restoration of benefits after this time period based on available funding. As ongoing State expenditures for restoration of benefits (for both SNAP and other programs) have already been assumed, the bill is not anticipated to have a material impact on State finances compared with anticipated spending in the absence of the bill. While the bill provides DHS with additional flexibility based on the limitations of the State budget, no net increase in spending is anticipated.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Department of Human Services; Department of Legislative Services

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