

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 9000

FINAL

ORDER

Delaware's SNAP EBT System

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Delaware's SNAP EBT System specifically, to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP). The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after August 11, 2023 Delaware Health and Social Services (DHSS) /Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP).

Statutory Authority

7 CFR 274.1
7 CFR 274.2 (b) & (f)
7 CFR 274.5
7 CFR 274.6 (b)
7 CFR 274.8
7 CFR 273.2 (f)(1)(vii)

Background

The Division of Social Services (DSS) is proposing this regulation to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP). The regulation includes guidelines for Delaware Health and Social Services (DHSS) to administer the State's EBT system and maintain and issue EBT cards. Several Divisions within DHSS have EBT roles that must be clearly defined and EBT system security requirements that must be followed to maintain compliance with federal regulations.

DSSM 9093 is being amended to add EBT system functions and requirements to the policy.

DSSM 9093.1 establishes SNAP EBT card maintenance responsibilities for the DHSS Office of the Secretary-Administration and Division of State Service Centers.

DSSM 9093.11 establishes the SNAP EBT card procedures for issuing cards to households who receive SNAP food benefits. Delaware's EBT contractor mails EBT cards to households, and the Division of State Service Centers issues over-the-counter EBT cards to households who have an immediate need to access food benefits.

Purpose

The purpose of this proposed regulation is to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP).

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 1, 2023.

Fiscal Impact Statement

The policy and procedures in the regulation are currently in operation and are being codified to define EBT card responsibilities within DHSS. There is no cost associated with the regulation.

Summary of Comments Received with Agency Response and Explanation of Changes

No comments were received during the public comment period.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 9093, 9093.1, 9093.11 regarding Delaware's SNAP EBT System, specifically, to define Delaware's EBT system and EBT card responsibilities for the Supplemental Nutrition Assistance Program (SNAP), is adopted and shall be final effective August 11, 2023.

7/17/2023

Date of Signature

Molly Magarik, Secretary, DHSS

9000 Food Stamp Program

9093 ~~Electronic Benefit Transfer (EBT)~~ Administering Delaware's EBT System

Statutory Authority

[7 CFR 272.4(c);] 7 CFR 274.1; 7 CFR 274.8

~~Electronic Benefit Transfer (EBT) is the method by which Delaware Department of Health and Social Services (DHSS) issues food benefits to participants households participating in the Supplemental Nutrition Assistance Program (SNAP). The EBT card is a plastic card called the Delaware Food First Card. The card is used with a Personal Identification Number (PIN) at grocery retailers to purchase food.~~

~~Delaware uses an EBT contractor to manage the EBT cards. Client/case file and benefit information are transmitted through an interface between the EBT contractor and the Division's data processing systems.~~

~~EBT did not change the way that eligibility determinations are made for food benefits. EBT affected the way that food benefits are delivered to participants. EBT provides greater privacy and security for those receiving food benefits.~~

1. The EBT system allows eligible households to electronically access their food benefits.
 - A. Food benefits are available on a reusable plastic EBT card.
 - B. Households use an EBT card and a personal identification number (PIN) to purchase food items at the point of sale at authorized retailers.

2. The EBT system performs the following functions:
 - A. Authorizing and issuing food benefits and EBT cards to eligible households;
 - B. Establishing and maintaining EBT accounts and benefit issuance records;
 - C. Ensuring eligible households can access and redeem their available benefits;
 - D. Securing household information, benefits, EBT accounts, and EBT system data;
 - E. Processing and verifying EBT purchases and benefit transactions;
 - F. Managing retailer participation; and
 - G. Crediting retailers and financial institutions for redeemed benefits.

3. DHSS is responsible for the coordination and management of Delaware's EBT system.
 - A. DHSS partners with an EBT vendor to operate the EBT system.
 - B. DHSS ensures that Delaware's EBT system and EBT vendor meet all federally required issuance, reconciliation, reporting, performance, and technical standards.
 - C. DHSS separates EBT issuance functions by dividing EBT responsibilities to prevent any single individual from having complete control over the certification of food benefits and the maintenance and issuance of EBT cards.
 - i. DHSS divides EBT responsibilities as described in policy section DSSM 9093.
 - ii. DHSS ensures that EBT responsibilities are either:

- a. Divided between at least two individuals; or
- b. Reviewed by a second party to verify inventory, reconciliation, and issuance records if issuance functions in an office are handled by one individual.

15 DE Reg. 1030 (01/01/12)

9093.1RESERVED Maintaining EBT Card Stock

Statutory Authority

7 CFR 274.1 (h)(2); 7 CFR 274.5; 7 CFR 274.8 (b)(3)(i)

Delaware Health and Social Services (DHSS) is responsible for maintaining the inventory of Electronic Benefit Transfer (EBT) card stock used at the State's EBT card sites.

1. The Office of the Secretary - Administration (OSEC-ADMIN) is responsible for:
 - A. Ordering and receiving EBT card stock from Delaware's EBT vendor.
 - B. Maintaining bulk inventory of EBT card stock for statewide distribution.
 - C. Storing EBT card stock in a secure, locked area with restricted access.
 - i. EBT card stock must be stored in a secure location in a locked storage room, file cabinet, desk, safe, or vault.
 - ii. Keys to the locked storage room, file cabinet, desk, safe, or vault must be kept in a separate secure location.
 - iii. Access to EBT card stock must be limited to only staff responsible for EBT card duties.
 - iv. EBT staff must always be present when EBT cards are not in secure storage.
 - D. Issuing EBT card stock to the State's EBT card sites when requested by a card site.
 - i. EBT cards are issued in sequential order by card number.
 - ii. OSEC-ADMIN EBT staff will verify that EBT card stock is securely stored at the card site when new card stock is delivered.
 - E. Reviewing the EBT card sites' inventory reconciliation logs monthly.
 - F. Identifying and resolving discrepancies and compliance issues for the EBT card sites' inventory reconciliation logs.
 - G. Counting, reconciling, and logging EBT card bulk inventory when new card stock is received, when card stock is removed, and on a monthly basis.
 - H. Dividing EBT card inventory, reconciliation, and issuance responsibilities between at least 2 staff members.
 - i. A second party must be involved in counting, reconciling, and logging EBT card bulk inventory when new card stock is received, when card stock is removed, and on a monthly basis.
 - ii. EBT card logs for inventory, reconciliation, and issuance must be reviewed and signed by the staff member completing the log and by the staff member performing the secondary review.
 - I. Reporting EBT reconciliation discrepancies or missing inventory immediately to EBT administrative staff.
 - J. Submitting EBT card logs for program reviews or audits as requested.
 - K. Maintaining EBT card logs in a secure place for 3 years or until audit and litigation requirements are fulfilled, if applicable.
 - i. EBT card logs will be shredded after the 3-year retention period.
2. The Division of State Service Centers (DSSC) is responsible for:
 - A. Requesting EBT card stock from OSEC-ADMIN EBT staff as needed.
 - B. Storing EBT card stock in a secure, locked area with restricted access at each EBT card site.
 - i. EBT card stock must be stored in a secure location in a locked storage room, file cabinet, desk, safe, or vault.
 - ii. Keys to the locked storage room, file cabinet, desk, safe, or vault must be kept in a separate secure location.
 - iii. Access to EBT card stock must be limited to only staff responsible for EBT card duties.
 - iv. Access to EBT card bulk inventory must be limited to management staff only or a designee.
 - v. Staff responsible for issuing cards from the daily inventory should not have access to the bulk inventory.
 - vi. EBT staff must always be present when EBT cards are not in secure storage.
 - C. Issuing EBT cards to households receiving food benefits in accordance with DSSM 9093.11.
 - i. EBT cards are issued in sequential order by card number.
 - D. Recording cards that are issued at the card site on the EBT card issuance log.
 - E. Recording cards that are destroyed at the card site on the EBT card destruction log.
 - F. Counting, reconciling, and logging EBT card bulk inventory when new card stock is received, when card stock is removed, and on a monthly basis.
 - G. Counting, reconciling, and logging EBT card daily inventory each business day.
 - H. Dividing EBT card inventory, reconciliation, and issuance responsibilities between at least two staff members.
 - i. Staff responsible for issuing cards from the daily inventory should not be responsible for counting, reconciling, and logging EBT card bulk inventory.
 - ii. A second party must be involved in counting, reconciling, and logging EBT card bulk inventory when new card

stock is received, when card stock is removed, and on a monthly basis.

- iii. A second party must be involved in counting, reconciling, and logging EBT card daily inventory each business day.
- iv. EBT card logs for inventory, reconciliation, and issuance must be reviewed and signed by the staff member completing the log and by the staff member performing the secondary review.
- I. Reporting EBT reconciliation discrepancies or missing inventory immediately to EBT administrative staff.
- J. Submitting EBT card inventory reconciliation logs to OSEC-ADMIN EBT staff monthly.
- K. Submitting EBT card logs for program reviews or audits as requested.
- L. Maintaining EBT card logs in a secure place for three years or until audit and litigation requirements are fulfilled, if applicable.
 - i. EBT card logs will be shredded after the three-year retention period.

3. The Division of Social Services (DSS) and Division of Medicaid and Medical Assistance (DMMA) are responsible for certifying food benefits and are excluded from maintaining EBT card stock.

12 DE Reg. 1092 (02/01/09)

15 DE Reg. 1030 (01/01/12)

9093.2Using EBT for Food Benefits

7 CFR 274.4

The household may use its EBT card in any grocery store, convenience store, farmers' market, etc., anywhere in the United States, authorized by FNS to accept the card. The benefits may be used the same as cash to purchase any food or food product prepared for human consumption. Households cannot use benefits to purchase alcoholic beverages, tobacco, soap and paper products, and hot foods or hot foods prepared for immediate consumption. Households can use benefits to buy seeds and plants for use in gardens to produce food for personal consumption by the eligible household.

EBT benefits are available 24 hours a day, seven days per week including weekends and holidays. DHSS issues benefits on a daily and monthly basis. DHSS issues monthly benefits on the same day each month for each household based on a staggered issuance schedule. The EBT contractor posts benefits in the household's account by 6 a.m. the day after benefits are approved in DCIS II.

There is no minimum dollar amount per transaction. There is no maximum limit on the number of transactions a household can make. Stores cannot impose transaction fees on food benefit households using their EBT card.

Households can check their food benefit account balances without making a purchase or standing in a checkout line.

Households receive printed receipts at the time of transactions.

When transacting food benefits by EBT, the household cannot receive change. When a household returns food to a store, the store will credit the household's EBT account with the amount of the refund. The household cannot receive a cash refund for returned food.

15 DE Reg. 1030 (01/01/12)

9093.3Food Benefit EBT Adjustments

7 CFR 274.2

The EBT contractor makes adjustments to EBT accounts to correct system errors. A system error is an error resulting from a malfunction at any point in the redemption process, for example, errors made at the grocery store. Adjustments are initiated by the client or store and may result in a debit or credit to the household.

DHSS will emphasize to clients that they should review their transaction slips before leaving the store. If there is a mistake, the client should discuss the problem with the store clerk or manager before leaving the store. Problems discovered later must be resolved through the EBT contractor Customer Service Unit.

Client-Initiated Adjustments

An EBT credit adjustment occurs when the EBT contractor returns benefits to a household's account after the store deducted the benefits in error.

For example, a household member uses an EBT card to purchase groceries. Due to a system error, the store debited the purchase amount from the household's EBT account twice.

The household has 90 days from the date of the problem transaction to contact the EBT contractor Customer Service at 1-800-526-9099 and inform the customer service representative that a problem has occurred. The household will need to tell the customer service representative the date, time and location of the transaction and the amount of food benefits that were debited in error.

If the request is a legitimate request, the EBT contractor will return the funds to the household's EBT account within 10 business days from the date the household filed the report with the EBT contractor Customer Service Unit. A business day is any calendar day other than a Saturday, a Sunday or a federal holiday.

If the household's request is not legitimate, the EBT contractor will deny the credit adjustment. The household may request a fair hearing. The EBT contractor will take no action to credit the household's EBT account unless the hearing decision is in the household's favor.

Retailer-Initiated Adjustments

A retailer-initiated adjustment occurs when the retailer does not receive a credit for an EBT purchase amount when the household made the purchase. The store needs the adjustment to get credit for the purchase made by the household.

For example, a household uses the EBT card to purchase \$200 worth of groceries. The credit to the store's account does not go through and the \$200 remains in the household's account.

DHSS must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjusted amount in the household's account. If there are insufficient benefits to cover the entire adjustment, DHSS will place a hold on any remaining balance that exists and the whole amount will be debited from the household's account when the next month's benefits become available.

DHSS will send an adequate notice as defined in DSSM 9094 to the household informing it of the account adjustment. The household has 90 days from the date of the notice to request a fair hearing.

If the household disputes the adjustment and requests a hearing within 10 days of the notice, DHSS will make a provisional credit to the household's account by releasing the hold on the adjustment balance within 48 hours of the request by the household, pending resolution of the fair hearing. If the household does not request for a hearing within 10 days of the notice, DHSS will release the hold on the adjustment balance, and credit this amount to the retailer's account.

15 DE Reg. 1030 (01/01/12)

9093.4Account Balances

An EBT food benefit account does not close when a food benefit DCIS case closes. The former recipient remains entitled to the account balance. As long as benefits remain in the EBT food benefit account, the former recipient may have cards issued or reissued and be able to select or change PINs.

15 DE Reg. 1030 (01/01/12)

9093.5Manual Transactions

7 CFR 274.8(d)

Sometimes circumstances cause the client or store clerk to enter the transaction manually instead of swiping the EBT card through the POS machine. This happens when the card's magnetic stripe becomes scratched, worn or demagnetized.

Until the client can get a new card issued, the client can still use the card at a retailer. The clerk keys the card number in manually to complete the transaction. Only the client should enter his/her PIN. The client should never reveal the PIN to a store clerk when entering a manual transaction.

15 DE Reg. 1030 (01/01/12)

9093.6Manual Vouchers

7 CFR 274.8(d)

Retailers use a manual voucher process when the EBT contractor system or the terminals are not working and cannot accept the EBT card for a food benefit purchase. Retailers do not have to use the manual process, but most will not turn away a sale.

Retailers that do not have POS terminals, for example, farmers' markets and street or route vendors also use manual vouchers.

The manual voucher is a paper form on which the retailer writes the card number, the cardholder's name, the store FNS number, and the dollar amount of the sale. The client must sign the voucher. The retailer must call in manual vouchers to the EBT contractor to get an authorization for the amount of the transaction. The retailer calls in to make sure that the money is in the client's account. If the client has enough funds in the account to cover the transaction, the retailer subtracts the whole amount of the transaction from the client's account.

Retailers use manual vouchers when the EBT contractor system is down. Since the retailer cannot confirm whether the client has an available balance, the client is limited to a \$40.00 purchase.

15 DE Reg. 1030 (01/01/12)

9093.7EBT & Timely Application Processing

7 CFR 274.2(b)

DHSS must provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but no later than 30 calendar days following the date the household filed the application. With EBT, FNS has issued guidelines saying that the opportunity to participate is the date the money is posted to the account **plus** two days when mailing the EBT card. DHSS mails most EBT cards. Clients may pick up a card at the local office after notifying the worker not to have the card mailed. To avoid these timeliness errors, staff will need to take the action to approve a case on or before the 26th day at the latest.

When it is not possible to process the case on or before the 28th day because the client did not turn in the verifications or worker time constraints, document the case record. The error may still count but the explanation will be there.

15 DE Reg. 1030 (01/01/12)

9093.8EBT Benefits and Claim Issues

When the EBT contractor posts the EBT benefits to the household's account, the household is considered in receipt of those benefits. If the household receives benefits it was not entitled to, DHSS/ARMS will establish a claim. DHSS/ARMS establishes a claim even if the household has not used the benefits in the EBT account. As long as the benefits are in the account, the household has access to those benefits and owes the State the amount of the claim.

ARMS must allow a household to pay its claim using benefits from its EBT benefit account according to DSSM 7004.3.

Benefits not used for 230 days are stale and ARMS can use the stale benefits to credit a household's claim with the consent of the household.

The EBT contractor will expunge benefits not used for 365 days from the household's account and credit the amount to a household's outstanding claim.

12 DE Reg. 1092 (02/01/09)

15 DE Reg. 1030 (01/01/12)

9093.9Aging Periods and Expungement Process

7 CFR 274.2(h)(2)

Benefits remain available to the household for 365 days from the date of availability. The EBT contractor sends reports to DHSS that show accounts with no activity. The EBT contractor provides DHSS with a report for the following periods of time:

- Period 1: 60 days
- Period 2: 90 days
- Period 3: 230 days
- Period 4: 365 days

A household will get a notice at Periods 1, 2 and 3 if the household has not used benefits for 60, 90 or 230 days. Stale benefits are benefits not used by these time periods. The notice will tell the household the following information:

- The account has not been used in the past 60, 90 or 230 days
- To call the EBT contractor customer service unit to get the balance on the account
- Stale food benefits not used for 230 days can be applied to any existing claim with the client's permission
- Food benefits that are not used by day 365 will be removed from the account forever
- Food benefits removed from the account on day 365 will be applied to any remaining food benefit claim

On day 230, DHSS will generate notices to clients with outstanding claims. The notice tells the household that ARMS will apply benefits not used for 230 days to the outstanding claim unless the household contacts ARMS within 10 days.

On day 250, households that do not contact ARMS to stop the repayment will have their stale benefits applied to the outstanding claim. On day 365, the EBT contractor system will expunge (remove from the account) any remaining stale benefits and send DHSS a report of those benefits expunged.

DCIS II and ARMS accounting systems will credit any expunged benefits to household accounts with an outstanding claim. ARMS and the Payments Unit will receive a report of benefits posted to household's claims so ARMS can update the benefit recovery screens. ARMS will send the client a credit slip indicating the credit made on his or her claim and the existing balance.

9093.10 Replacement of EBT Benefits

Please refer to DSSM 9079 for Replacing Food Benefits Issued by Electronic Benefits Transfer (EBT).

9 DE Reg. 235 (8/1/05)

9093.11 Issuing EBT Cards to Households Receiving Food Benefits

Statutory Authority

7 CFR 274.2 (b) & (f); 7 CFR 274.6 (b); 7 CFR 273.2 (f)(1)(vii)

Delaware issues Electronic Benefit Transfer (EBT) cards to households receiving food benefits at initial certification and when households request replacement EBT cards.

1. Delaware issues EBT cards to households certified for food benefits to ensure households have the opportunity to participate in the Supplemental Nutrition Assistance Program (SNAP) in accordance with DSSM 9093.7.
2. Delaware issues replacement EBT cards to households reporting a damaged, defective, lost, or stolen EBT card.
3. Delaware's standard method for EBT card issuance is by mail. Households that need immediate access to an initial or replacement EBT card may receive an over-the-counter EBT card from the Division of State Service Centers (DSSC).
4. Delaware's EBT vendor mails EBT cards to newly certified households and households that request replacement EBT cards.
 - A. The EBT vendor mails EBT cards and instructions for card activation and usage directly to a household's address on file in Delaware's eligibility system.
 - B. If a household has never had an EBT card, the following will occur once the food benefit case is approved:
 - i. A new EBT account is established;
 - ii. The initial EBT card will be issued to the case head;
 - iii. The household will receive the initial EBT card in the mail within 3-14 calendar days (depending on mailing times).
 - C. If a household needs a replacement EBT card, the following will occur once the replacement request is received:
 - i. A replacement EBT card will be issued to the case head;
 - ii. The household will receive the replacement EBT card in the mail within 3-14 calendar days (depending on mailing times).
 - D. Households that need a replacement EBT card but do not have an open food benefit case must receive a mailed replacement EBT card.
5. DSSC provides over-the-counter EBT cards to households that have an immediate need to access their food benefits at initial certification or when a replacement EBT card is requested.
 - A. A household is considered to have an immediate need to access food benefits when:
 - i. The household does not have an EBT card and is eligible for expedited processing as defined in DSSM 9041 and DSSM 9041.1;
 - ii. The household does not have an EBT card and is at risk of not receiving timely benefits in accordance with DSSM 9093.7;
 - iii. The household's EBT card was damaged, defective, lost, or stolen, and the household has benefits available in their EBT account and an open food benefit case; or
 - iv. The household has a special circumstance, such as, but not limited to:
 - a. Residing in a domestic violence, emergency, or homeless shelter;
 - b. Lacking a fixed place of residence or mailing address;
 - c. The household's EBT card was damaged or lost in a natural disaster.
 - B. Households that have an immediate need to access food benefits may visit any DSSC EBT card site to request an EBT card.
 - i. The initial or replacement EBT card will be issued to the case head; or
 - ii. With the case head's permission, the initial or replacement EBT card may be issued to:
 - a. A member of the food benefit household who is age 18 or older; or

- b. The household's food benefit authorized representative.
- C. DSSC EBT staff must verify the identity of the individual receiving the EBT card for the household.
 - i. DSSC will accept any documents which reasonably establish the individual's identity and will not require a specific type of identification.
 - a. Identity can be verified through readily available documentary evidence, such as, but not limited to:
 - A driver's license;
 - A work or school ID;
 - An ID for health benefits;
 - An ID for an assistance or social services program;
 - A Social Security card;
 - A voter registration card;
 - Wage stubs; or
 - A birth certificate.
 - ii. Delaware Health and Social Services (DHSS) staff may assist households in obtaining verification documents. DHSS staff cannot be used as a collateral contact to verify the identity of the individual receiving the EBT card.
 - iii. An EBT card cannot be issued to an individual whose identity cannot be verified.
 - D. DSSC EBT staff will issue an EBT card to the household and provide instructions for card activation and usage.
 - E. Each DSSC EBT card site will maintain an EBT card issuance log to record issuance dates, EBT card numbers, and cardholders' names and signatures.
 - F. Each DSSC EBT card site will maintain an EBT card destruction log to record destruction dates, destruction reasons, EBT card numbers, and cardholders' names.
 - i. DSSC EBT staff will destroy damaged, defective, or deactivated EBT cards that are from EBT card stock or returned by households.
 - ii. EBT cards are destroyed by cutting or shredding the card.
- 6. DSS and DMMA are responsible for certifying food benefits and are excluded from issuing EBT cards.
 - A. DSS and DMMA staff may request mailed replacement EBT cards for households through Delaware's eligibility system or EBT system.

27 DE Reg. 111 (08/01/23) (Final)