



**FIA ACTION TRANSMITTAL**

**Control Number: # 24-06**

**Effective Date: Upon Receipt**

**Issuance Date: July 27, 2023**

**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT,  
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF**

**FROM: LA SHERRA AYALA, EXECUTIVE DIRECTOR**

**RE: EBT FRAUD REPLACEMENT FORM FAIR  
HEARING POLICY AND PROCEDURES**

**PROGRAM IMPACTED: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM  
TEMPORARY CASH ASSISTANCE  
PUBLIC ASSISTANCE TO ADULTS  
TRANSITIONAL SUPPORT SERVICES  
CHILD SUPPORT PASS THROUGH  
TEMPORARY DISABILITY ASSISTANCE PROGRAM  
REFUGEE CASH ASSISTANCE**

**ORIGINATING OFFICE: OFFICE OF OPERATIONS**

**SUMMARY**

All EBT Fraud Replacement appeal proceedings will be managed by Allegany and Garrett County. All other jurisdictions are required to email the completed EBT Fraud [Request for Fair Hearing DHS/FIA 334 form](#) (DHS/FIA 334 form) to Allegany and Garrett County using the designated email address [ebtfracreplacemnt.appeals@maryland.gov](mailto:ebtfracreplacemnt.appeals@maryland.gov) (**For internal use related to EBT Fraud Replacement appeals only**). Allegany and Garrett County will fax the DHS/FIA 334 to the Office of Administrative Hearings (OAH). Additionally, steps are outlined below to ensure optimal customer service for all customers who seek a fair hearing related to the EBT Fraud Replacement form decisions.

## POLICY

On April 24, 2023, [Senate Bill 0002 and House Bill 502](#), passed by the Maryland General Assembly and was signed into law by Governor, Wes Moore. The newly signed legislation authorizes the reimbursement of Supplemental Nutrition Assistance Program (SNAP), and Cash benefits stolen from Electronic Benefits Transfer (EBT) cards from the period of January 1, 2021, through September 30, 2022, with the use of 100% State funds.

EBT Fraud Replacement forms for transactions between January 1, 2021, and September 30, 2022, are subjected to unique fair hearing policy and procedures.



- If a household appeals the State decision on a claim involving benefits stolen between January 1, 2021, and October 1, 2022, they may receive their benefits pending the outcome of the appeal with an understanding that they will repay the benefits, if they lose the appeal.
- If a household loses an appeal and must repay the benefits, the monthly repayment may not exceed 5% of the household's monthly allotment or \$10, whichever is less.
- **Benefits that were stolen on or before December 31, 2020, are still not replaceable.**

## REQUIRED ACTION:

Customers have the right to appeal the denial decision of an EBT Fraud Replacement claim. The LDSS staff must perform the following actions:

1. Assist customers with completing the written fair hearing request on the DHS FIA 334 form. The DHS FIA 334 form is accessible [online](#).
2. Email all completed DHS FIA 334 forms to Allegany and Garrett County using the designated email address [ebtfracreplacement.appeals@maryland.gov](mailto:ebtfracreplacement.appeals@maryland.gov).
3. Allegany and Garrett County EBT Fraud Teams will complete the bottom portion of the DHS/FIA 334 form with Allegany and Garrett County's contact information to ensure that the OAH hearing notice will go directly to the appropriate LDSS handling the EBT Fraud Replacement Appeals.

**Note:** OAH will directly notify customers of the fair hearing appointment date and time.

<b>Example:</b> A Baltimore City customer requests a fair hearing of a denial made on a EBT Fraud Replacement form.	
 <b>Proper Practice and Procedure</b>	 <b>Improper Practice and Procedure</b>
<ul style="list-style-type: none"><li>● Accept the written appeal request, give the customer an acknowledgement receipt and</li></ul>	<ul style="list-style-type: none"><li>● Inform the customer the appeal process will be handed by</li></ul>

<p>email the completed DHS/FIA 334 form to the Allegany and Garrett County Teams.</p> <ul style="list-style-type: none"> <li>● Accept the oral appeal request and complete the DHS/FIA 334 form.</li> <li>● Upload the DHS/FIA 334 form to “Case Documents” in the customers Eligibility and Enrollment system (E&amp;E) case record and narrate all the steps/actions taken.</li> <li>● Email a copy of the DHS/FIA 334 form to Allegany and Garrett County using the designated email address.</li> <li>● Allegany and Garrett County will fax the DHS/FIA 334 form to OAH.</li> </ul>	<p>Allegany and Garrett County; therefore, the customer must contact one of those LDSS offices.</p>
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**For Allegany and Garrett County Only**

- At the bottom of the DHS/FIA 334 Appeal form, Allegany and Garrett County will place their Department and Local Office information and complete the “For Agency Use Only” section.

_____		_____	
Signature		Date	
<b><u>FOR AGENCY USE ONLY</u></b>			
Department: _____	Local Office: _____	Date Appeal Received: _____	Case Name: _____
Case Number: _____			
Appeal based on notice sent: _____	Effective: _____	Conference held? Y ___ N ___	
Benefits pending? Y ___ N ___	Reason: _____	_____	
Case record attached? Y ___ N ___	Reason: _____	_____	
Worker: _____	Supervisor's Approval: _____	Date: _____	
<b><u>FOR APPEAL UNIT USE ONLY</u></b>			
Appeal Rep: _____	_____	Date: _____	_____
Category: _____	Transmitted by: _____	_____	

DHS/FIA 334 (revised 4/2021)

**Case Management related fair hearing practices remain relatively the same.**

Customer Requests a Fair Hearing

The local department must not limit or interfere with the customer’s right to request a hearing. A customer may request a hearing orally or in writing. Local department staff must not discourage the customer from filing a request for fair hearing regardless of whether the LDSS staff feels the customer will “win” or not.

1. Oral Request

If the customer’s request is oral, the request must be put in writing on the DHS/FIA 334 form. For all programs, the local department must **not** require the customer to put the request in writing and must offer to assist the customer in completing the form. The completed form must be uploaded to E&E and the case must be narrated.

2. Written Request

If the customer has submitted a written request that is not on a DHS/FIA 334 form, the local department must complete a DHS/FIA 334 form and attach the customer’s written request to it. The completed form and the written request must be uploaded to E&E and the case must be narrated.

**Reminder:**

LDSS staff must email all completed EBT Fraud related DHS FIA 334 forms only to Allegany and Garrett County using the designated email address. The Allegany and Garrett County Teams must fax the customer’s EBT Fraud fair hearing request directly to the Office of Administrative Hearing as follows:

Maryland Office of Administrative Hearings  
11101 GILROY ROAD  
HUNT VALLEY, MARYLAND 21031  
Fax to 410-229-4266 or 410-229-4268

*Note the following practice is now obsolete:* - “Local departments must fax the customer’s fair hearing request to the Bureau of Policy, Legislation and Reporting (PLR) at 410-333-6581.”

As a result of [Senate Bill 0002 and House Bill 502 - Department of Human Services - Electronic Benefits Transfer Cards - Theft of Benefits \(Prevent Electronic Benefits Theft Act of 2023\)](#)

<b>EBT Fraud Replacement Appeal Process Prior to October 1, 2022</b>	<b>EBT Fraud Replacement Appeal Process Post October 1, 2022</b>
State Funded Benefits (SB2/HB502)	Federally Funded Benefits (Consolidated Appropriations Act, 2023)
All customers have the right to request a fair hearing/file an appeal.	All customers have the right to request a fair hearing/file an appeal.
Customers can request payment of replacement benefits during the appeal. - If the appeal decision is not in the customers favor, the customer will be required to pay back the EBT replacement benefits at a rate that may not exceed \$10 or 5% (whichever is less).	Customers <u>cannot</u> receive replacement benefits while awaiting an appeal.

<p><b>Manual EBT Replacement Claim Process</b></p> <p>SNAP Active &amp; Closed Cases:</p> <ul style="list-style-type: none"> <li>- Recovery mode only</li> <li>- Federal benefits cannot be used to recoup the overpayment.</li> <li>- The customer will receive a Closed Notice 18-EBT Fraud Replacement.</li> </ul> <p>Cash Active &amp; Closed Cases:</p> <ul style="list-style-type: none"> <li>- Recoupment is allowed.</li> <li>- Active benefits can be used to repay the overpayment.</li> <li>- Active benefits can be reduced.</li> <li>- Customers will receive an Active Notice 18 or IPV forms 6 and 7 if OIG alleges fraud.</li> </ul>	<p>INTENTIONALLY LEFT BLANK</p>
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**Important notification to relay to customers:** Submitting a false claim will be subjected to penalty of perjury or subject to prosecution and or repayment. If a household loses an appeal and must repay the benefits, the monthly repayment may not exceed 5% of the household’s monthly allotment or \$10, whichever is less. Failure to repay benefits can result in collection action. This could include referral to the State’s Central Collection Unit which may lead to taking all or part of their future State Income Tax refunds.

**Resources:**

- How-To-Guide: EBT Fraud Replacement - Appeals and Repayment Process
- How-To-Guide: EBT Fraud Replacement - Manual Overpayment Process
- Appeals Fair Hearing Guide (Updated guide forthcoming)
- [Senate Bill 0002](#)
- [House Bill 502](#)
- [Department of Human Services - Electronic Benefits Transfer Cards - Theft of Benefits \(Prevent Electronic Benefits Theft Act of 2023\)](#)

**INQUIRIES:**

Please direct policy questions to FIA Policy by completing the [FIA Policy Information Request Form](#) found on Knowledge Base or via email at [fia.policy@maryland.gov](mailto:fia.policy@maryland.gov) for Montgomery County only.

c: DHS Executive Staff  
 Constituent Services  
 DHS Help Desk

FIA Management Staff  
Office of Administrative Hearings