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**FAMILY INVESTMENT ADMINISTRATION
(FIA) ACTION TRANSMITTAL**

Control Number: # 24-31

Effective Date: IMMEDIATELY

Issuance Date: February 6, 2024

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

FROM: AUGUSTIN NTABAGANYIMANA, ACTING EXECUTIVE DIRECTOR *Augustin*

RE: SUPPLEMENTAL INFORMATION REGARDING AT 23-09 RESTORATION OF STOLEN BENEFITS - PHASE III

PROGRAM AFFECTED: 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 PROGRAMS

SUMMARY

On February 24, 2023, the federal government approved Maryland’s State Plan to restore Supplemental Nutrition Assistance Program (SNAP) benefits stolen as a result of Electronic Benefit Transfer (EBT) card fraud. The Consolidated Appropriations Act (CAA) 2023 authorizes replacement of stolen SNAP benefits for the period of October 1, 2022, through September 30, 2024. Under the federal program, a household is eligible for a maximum of two replacements in a Federal Fiscal Year (FFY) and must submit their claim(s) for replacement within 45 days of the theft. Under the federal guidelines, the maximum replacement amount may not exceed two (2) times the monthly SNAP allotment issued in the month preceding the fraudulent transaction(s).

The State subsequently identified funding to replace stolen cash benefits to ensure that all households affected by theft might be considered for reimbursement. Federal stolen SNAP replacement and state stolen cash benefit replacement policies were aligned for consistency across programs.

This Action Transmittal (AT) supplements *AT 23-09 Restoration of Stolen Benefits* to expand previous policy guidance regarding the restoration of stolen cash benefits in Maryland. This AT should be used in conjunction with *AT 23-08 Restoration of Stolen Benefits* and *Revised AT 23-09 Restoration of Stolen Benefits* which broadly defines *Phase I and II* EBT Restoration of Stolen Benefits processes.

POLICY

Phase I

On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023 (also known as the Omnibus), which includes provisions to replace SNAP benefits stolen as a result of electronic EBT card fraud. The federal program limits stolen benefit replacement based on when theft is reported, the number of claims made, and the total amount of stolen benefits that are eligible for replacement.

Governor Moore's administration created a plan for Maryland to replace stolen SNAP benefits, which was approved by the United States Department of Agriculture Food and Nutrition Service (FNS). In addition, a state plan to replace stolen cash benefits was created.

Phase 2

On April 24, 2023, Governor Moore signed SB2/HB502, which was passed by the Maryland General Assembly authorizing DHS to reimburse stolen cash benefits. The State Stolen Cash Benefits Replacement Program is codified at MD Code Ann., Hum. Servs. § 5-609 and MD Code Ann., Hum. Servs. § 5-610. Under Hum. Servs. Articles § 5-609 and § 5-610 the state program replaces certain benefits not covered under the federal program, including cash benefits stolen between January 1, 2021, and October 1, 2022. The State Stolen Benefits Replacement Program does not have the limitations on replacement required under the federal program.

WHAT IS NEW?

Phase 3

After further consideration, the Department of Human Services (DHS) is broadening the State Stolen Benefits Replacement Program to provide more relief to families affected by EBT theft. Under the Enhanced State Stolen Benefits Replacement Program ("Enhanced State Program"), the Department will restore cash and SNAP benefits not covered by the federal program and stolen after October 1, 2022. The Enhanced State Program will not apply federal program restrictions on when theft must be reported, the number of claims made, or the total amount of stolen benefits that are eligible for replacement.

Under the Enhanced State Program, the following claims are now eligible for a replacement:

- P-EBT benefits stolen after January 1, 2021, **including benefits stolen after October 1, 2022.**
- SNAP benefits not eligible for a replacement under the federal program, including:
 - SNAP claims or transactions reported after the federally required 45-day from the date of theft. SNAP claim amounts over the federal limitation of two times the household's monthly allotment.
 - SNAP claims received after a household has reached the federal maximum of two claims within a federal fiscal year.
- Cash and SNAP benefits stolen as result of the physical theft of an EBT card when, in addition to physical card theft, the customer demonstrates that the Personal Identification Number (PIN) was stolen as well.

Important Note:

Benefits stolen before January 1, 2021, will not be restored under the state or federal replacement programs.

Benefits will be restored if:

- An investigation by a case manager shows a household's benefits were lost due to theft.
- The benefits are eligible for replacement under the federal or state program as described here and/or in *AT 23-09 Restoration of Stolen Benefits*.

PROGRAMS ELIGIBLE FOR REPLACEMENT

- Supplemental Nutrition Assistance Program (SNAP)
- Disaster SNAP (DSNAP)
- Minimum State Supplement (MSS)
- Heat and Eat (H-EAT)
- Summer SNAP
- Temporary Cash Assistance (TCA)
- Transitional Support Services (TSS)
- Child Support Passthrough
- Temporary Disability Assistance Program (TDAP)
- Refugee Cash Assistance (RCA)
- Pandemic EBT (P-EBT)
- Public Assistance to Adults (PAA)

For your reference below, the **EBT STOLEN BENEFITS AT-A-GLANCE** chart provides a side-by-side comparison of the federal Consolidated Appropriations Act 2023, the State Stolen Benefits Replacement Program, and the Enhanced State Program.

Please refer to the newly updated *How-To-Guide: Report EBT Stolen Benefits_V 3.0* providing

instructions for customer submission of the EBT Stolen Benefits Attestation Form and related documentation.

TRAINING UPDATES

Each case manager must be equipped to answer basic questions about the Enhanced State Program replacing stolen cash benefits.

There is a live, statewide online training session on Tuesday, February 6, 2024. The training session will review changes implemented in the Enhanced State Stolen Benefits Replacement Program, and it will outline what is expected for all counties. Written materials will be shared at the end of the session. The written materials and a recording of the training session will be available on the Hub for anyone that missed the live session. Given their respective roles in processing stolen benefits claims, Garrett and Allegany counties received additional training specific to processing cases on February 2, 2024.

There will also be a dedicated webpage that provides information regarding the Enhanced State Program, including *Frequently Asked Questions and Answers*, to further the Department's efforts to educate and support customers.

SYSTEM UPDATES AND CODING BENEFITS IN E&E

New budget codes were added to E&E for replacement of EBT Stolen Benefits.

- **608** - SNAP EBT Stolen Benefits Replacement for HOH <21 years old, settled as Cash.
- **609** - PEFT Fraud Replacement, settled as Cash.

The new codes will be used to replace stolen benefits that were not previously reimbursed under the State Stolen Benefits Replacement Program.

The How-To-Guide: Process an EBT Stolen Benefits Replacement Request in Worker Portal_V.3.0 has been updated with additional instructions. The updates include SNAP and Cash processing steps; federal transactions; denial reasons; differentiation between SNAP and Cash approval reasons; processing existing claims under Phase III; suppressed denial notice for SNAP federal transactions; and identifying SNAP households with children.

Note: We created case examples in the table below to further help you make decisions as you review replacement claims that fall under the Enhanced State Program.

Enhanced EBT Stolen Benefits Incidents	Eligibility Decision	Decision Reason
<p>A customer submitted an EBT Stolen Benefits Attestation Form on February 20, 2024. The benefits were stolen on December 31, 2020. The fraudulent transaction was verified and substantiated in EPPIC.</p>	Deny	<p>The reported incident does not fall within the new replacement eligibility time frame and current authority. Benefits stolen prior to January 1, 2021, are not reimbursable.</p>
<p>A customer submitted a Stolen Benefits Attestation Form on February 25, 2024. The fraudulent transactions occurred December 13, 2023. The customer has already received two replacements within a FFY, the maximum established under the federal SNAP replacement program.</p>	Approve	<p>Although the customer has reached the maximum number of claims a household can receive within a FFY under the federal program, the February 25, 2024, claim is covered under the Enhanced State Program.</p>
<p>A customer submitted a Stolen Benefits Attestation Form on September 5, 2024. The fraudulent transaction occurred on August 13, 2024. The stolen Pandemic EBT (P-EBT) benefit was verified in EPPIC.</p>	Approve	<p>Although P-EBT benefits were not previously replaced, under the Enhanced State Program P-EBT benefits are now eligible for replacement.</p>
<p>A customer submits a Stolen Benefits Attestation Form on February 5, 2024. An investigation by a case manager verifies that the theft occurred on December 2, 2020.</p>	Deny	<p>Although this is a legitimate benefits theft claim, the request for reimbursement cannot be honored because the theft occurred before January 1, 2021, - benefits stolen before this date are not covered under the federal or state program.</p>
<p>On March 2, 2024, a customer submits an EBT Stolen Benefits Attestation Form to claim a reimbursement for stolen SNAP benefits. An investigation by the case manager determines the report is legitimate; however, the customer missed the 45 days reporting requirement under the federal program.</p>	Approve	<p>Although the claim is not eligible for a reimbursement under federal program, the claim should be honored under the state program. The case manager should follow the E&E User Guide to apply the reimbursement to the appropriate state funding code.</p>

RETROACTIVE PAYMENTS FOR CERTAIN CLAIMS PREVIOUSLY DENIED

DHS will replace stolen benefits for claims that were initially denied but are now eligible for a replacement under the enhanced state stolen benefits replacement program. Eligible cases have been identified and will be processed by a case manager. Eligible households will not have to take any action to receive the remaining benefits. Households will receive the retroactive replacement on their existing EBT card by April 30, 2024.

Case managers from Allegany and Garrett counties will review all previously denied claims and transactions to identify the households that are eligible for a retroactive replacement. A case may be eligible for a retroactive replacement of stolen benefits if the claim was previously denied in whole or in part due to the following reasons:

- SNAP benefits not eligible for a replacement under the federal program, including:
 - SNAP claims or transactions reported after the required 45-day from the date of theft.
 - SNAP claim amounts over the two times the household's monthly allotment.
 - SNAP claim received after a household has reached the two maximum claims limit.
 - SNAP benefits stolen between January 1, 2021, and September 30, 2022.
- Cash and SNAP benefit stolen as a result of physically stolen EBT cards and PINs.

Note: A list of attestation claims will be provided to the Allegany and Garrett County processing teams. Each processing team will work on all attestations that are associated with the case assigned to their team.

Case managers should refer to the ***How to Guide: Process an EBT Stolen Benefits Replacement Request in Worker Portal_ V 3.0*** for more detailed processing steps for making an eligibility determination (i.e., approval or denial) of a claim.

- All other jurisdictions must continue to play their roles for outreach, claim form submission support, and ongoing customer service.
- It is everyone's responsibility to refer customers to internal and external sources while they are waiting for a decision on their claims.

Case managers may refer to *AT 23-09 REVISED Restoration of Stolen Benefits* for procedures relative to the EBT Stolen Benefits Attestation Form submission process in E&E.

Note: New stolen benefits claims must first be evaluated for eligibility for replacement using federal funds. If a claim is not eligible for a replacement under federal rules because they were stolen before October 1, 2022, it may be processed under *Phase II/III* replacement instructions below.

EBT STOLEN BENEFITS AT-A-GLANCE

EBT Stolen Benefits Process Post October 1, 2022 Through September 30, 2024 Phase I	State Stolen Benefits Replacement Program Process, Prior to October 1, 2022 Phase II	EBT Enhanced State Program Phase III
Federal Stolen Benefits Replacement Program (Consolidated Appropriations Act, 2023)	State Stolen Benefits Replacement Program	Enhanced State Stolen Benefits Replacement Program
<ul style="list-style-type: none"> DHS will observe the federal requirement to limit the number of replacements to two occurrences in a Federal Fiscal Year (FFY). DHS must evaluate each claim eligible for replacement under federal rules If the claim is ineligible under the federal program it is assessed for eligibility under the state program. <p>The 45-day deadline subject to reporting of benefits stolen prior to October 1, 2022, applies to households eligible for reimbursement under Phase I Implementation.</p>	<ul style="list-style-type: none"> DHS will replace benefits stolen prior to October 1, 2022, and between January 1, 2021, - September 30, 2022. <ul style="list-style-type: none"> Allows DHS to restore benefits stolen during the period of January 1, 2021 through October 1, 2022. Unlike the federal program, there is no state program cap on the restoration amount. Under the state program, there is no limit to the number of months in which a household can receive restoration of benefits due to theft. The household will receive 100% of the benefit lost due to theft between January 1, 2021, - September 30, 2022. <p>SB2/HB502: Has a broader definition of “theft” than the federal program, and includes physical theft of an EBT card. Under the federal program, States are only authorized to replace benefits stolen via electronic means.</p> <p>“THEFT” includes: (I) Physical theft of an electronic benefits transfer card; (II) Identity fraud, as defined § 8–301 of the criminal law article; and (III) Theft through skimming practices. If a customer appeals a DHS’ decision, he or she may request her benefits to be restored while awaiting the outcome of a fair hearing.</p> <p>The federal 45-day deadline subject to reporting benefits stolen after October 1, 2022, does not apply to households eligible for reimbursement under Phase II implementation.</p>	<ul style="list-style-type: none"> DHS will replace benefits stolen after October 1, 2022, if they are not covered under the federal program. <ul style="list-style-type: none"> SNAP and Cash claims reported after the required 45-day timeframe SNAP and Cash claims in excess of 2 times the household’s monthly allotment SNAP and Cash claims after two replacements in a federal fiscal year. DHS will replace P-EBT benefits <p>The Enhanced State Program does not apply the restrictions of the federal program.</p> <p>The Enhanced State Program includes replacing stolen P-EBT benefits.</p> <p>The Enhanced State Program has a broader definition of theft than the federal program and includes physical theft of an EBT card when the PIN is also stolen.</p> <p>SB2/HB502:</p> <p>“THEFT” includes: (I) Physical theft of an electronic benefits transfer card; (II) Identity fraud, as defined § 8–301 of the criminal law article; and (III) Theft through skimming practices.</p>

OVERPAYMENT RECOUPMENT

Under the federal program, if a household loses an appeal and must repay the benefits, the monthly repayment may not exceed 10% or \$10 for Agency/Client Error and/or 20% or \$20 for Intentional Program Violation (IPV) related cases.

Under the State Stolen Benefits Replacement Program, 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.

REFERENCES:

- 23-09 REVISED AT - Restoration of Stolen Benefits.
- 24-06 AT - EBT Fraud Replacement Form Fair Hearing Policy and Procedures
- Maryland State Plan for Replacement of SNAP Benefits.
- Replacement of SNAP Benefits in the Consolidated Appropriation Act of 2023
- SB2/HB502.
- EBT Stolen Benefits Website updates.
- How-To-Guide: Process an EBT Fraud Replacement Request V 0.1 (Internal Use Only).
- How-To-Guide: Process an EBT Fraud Replacement Request V 0.2 (Internal Use Only).
- How-To-Guide: Process an EBT Stolen Benefit Replacement Request V 0.3 (Internal Use Only).
- EBT Manual (Internal Use Only).

INQUIRIES:

Please direct policy questions to FIA Policy by completing the [FIA Policy Information Request Form](#). Montgomery County staff may submit their policy questions via email at fia.policy@maryland.gov. For questions related to E&E, please email fia.bsdm@maryland.gov.

cc: DHS Executive Staff
Constituent Services
DHS Help Desk
FIA Management Staff
Office of Administrative Hearings