

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources

Rule No. 660-2-2-.41

Rule Title: Unauthorized Electronic Benefits Transfer(EBT) Transactions

X New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? yes

Is there another, less restrictive method of regulation available that could adequately protect the public? no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? no

Are all facets of the rule making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? yes

Does the proposed rule have an economic impact? yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of § 41-22-23, ALA.CODE 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, ALA.CODE 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service:

Signature of certifying officer: *Amy J. Buckner*
Date: July 18, 2013

DATE FILED
(STAMP)

Department of Human Resources
Family Assistance Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 660-2-2-.41 Unauthorized Electronic Benefits Transfer (EBT) Transactions

INTENDED ACTION: New Rule


SUBSTANCE OF PROPOSED ACTION: New rule to implement action as required by Federal Law to establish policy and practices to prevent unauthorized EBT transactions.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views, or arguments respecting the proposed amendment by mail, by telephone or in person through the close of business on 9/4/13. Persons wishing to submit data, views, or arguments orally should contact the Department's Administrative Procedure Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-9330, or set up an appointment for such oral/in person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 4, 2013

CONTACT PERSON AT AGENCY:

Ms. Gail Grobe, AP Secretary
State Department of Human Resources
Gordon Persons Building
50 Ripley Street, Room 2122
Montgomery, Alabama 36130-4000



Nancy T. Buckner, Commissioner
Department of Human Resources

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 660 Department or Agency Human Resources

Rule No: 660-2-2-.41

Rule Title: Unauthorized Electronic Benefits Transfer (EBT) Transactions

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

Compliance with federal requirements so as to avoid financial penalty to the Department , specifically the Temporary Assistance for Needy Families Block Grant. Additionally, potential inappropriate client spending of benefits may be minimized.

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

For those clients in violation of the rule, the FA grant will be reduced by 50% of the payment standard for the assistance unit size for any month an unauthorized transaction occurs. The use of a financial penalty as enforcement of a rule provides greater assurance of the likelihood of client compliance.

3. EFFECT OF THIS RULE ON COMPETITION:

None

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

None

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

Temporary Assistance for Needy Families Block Grant

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

The short term impact on clients will be a loss of benefits for each month there are violations of the rule. The long term benefit is that clients will adhere to the rule rather than risk loss or continued loss of benefits.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

None

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

None.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

None.

RULES
of the
DEPARTMENT OF HUMAN RESOURCES
FAMILY ASSISTANCE DIVISION

Chapter 660-2-2
FAMILY ASSISTANCE PROGRAM

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660-2-2-.41 Unauthorized Electronic Benefits Transfer (EBT) Transactions

(1) Legal Basis

Federal law requires states to prevent assistance provided under the FA Program from being used in any EBT transaction in liquor (package) stores, gambling establishments, and strip clubs. Use of the card in those locations is referred to as unauthorized EBT transactions. Actions taken to prevent unauthorized transactions include client education about the spending restriction and a financial penalty for noncompliance without good cause.

(2) Penalty for Noncompliance

For each month of noncompliance, the grant amount will be reduced by 50% of the payment standard for the assistance unit size.

(3) Good Cause for Unauthorized EBT Transactions

(a) Lack of transportation or lack of free transportation to non-prohibited locations.

(b) Emergencies

(c) Lack of or limited access to non-prohibited locations in the community/area of residence.

(d) Other at worker discretion.

(4) **Definitions**

(a) **Unauthorized EBT Transaction-** Use of an EBT card to withdraw FA benefits or process a payment for merchandise or a service from an ATM or POS device physically located in a liquor store, gambling establishment or strip club.

(b) **Liquor store** - Any retail establishment selling exclusively or primarily intoxicating liquor. Such entities are often referred to as package stores.

(c) **Gambling establishment-** A retail establishment offering casino, gambling or gaming activities as the primary purpose of the establishment.

(d) **Strip Club** - Any retail establishment providing adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

Author: Melody Armstrong

Statutory Authority: Social Security Act, Title IV-A; 45 C. F. R. 262 and 265; State Plan for Title IV-A; P.L. 112-96; Code of Alabama 1975, Title 38.

History: New Rule: Filed September 5, 2013; effective October 10, 2013