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MEMORANDUM

To: Individuals Who Commented on the Proposed Regulation Regarding
TFA EBT Transaction Restrictions, DSS Reg. No. 13-07

From: Roderick L. Bremby, Commissioner 
Department of Social Services
25 Sigourney St.
Hartford, CT 06106

Date: June 26, 2014

Re: Responses to Public Comment

The following are the Department of Social Services' (the "Department's") responses to comments received from the public concerning the proposed regulation referenced above. The Notice of Intent for this regulation was published in the Connecticut Law Journal on January 7, 2014. A copy of the regulation with revisions based on public comment is enclosed.

(1) Alternative means of complying with Section 4004 of Public Law 112-96

Comment: One comment indicated that the Department should explore alternative means of complying with Section 4004 of Public Law 112-96, such as utilizing technology capable of blocking electronic benefit transfer (EBT) transactions involving Temporary Family Assistance (TFA) benefits in prohibited locations.

Response: Prior to adopting the method of compliance with Section 4004 set forth in the proposed regulation, the Department met with representatives of JP Morgan Chase, the contractor who provides EBT account services for the Department, to discuss various alternatives. After these meetings, it was determined that there are no viable alternatives that are both technologically feasible and cost effective. EBT cards issued by the Department commingle TFA funds with funds from other sources, including child support payments and cash benefits issued pursuant to other programs administered by the Department. Connecticut does not currently have access to blocking technology that is capable of differentiating between TFA funds and funds from these other sources. A systematic blocking policy would, therefore, prevent EBT card holders from accessing non-TFA funds at prohibited locations, which goes beyond what is required by Section 4004 and would reduce client access to non-TFA funds. Issuance of TFA-exclusive EBT cards in addition to EBT cards for other funds was considered, but determined to be cost prohibitive.

(2) Use of penalties not required or authorized by federal law

Comment: One comment suggested that imposing penalties when TFA funds are used in an EBT transaction at a prohibited location is not required or authorized by Section 4004.

Response: While there is nothing in Section 4004 that requires the Department to impose penalties on TFA recipients whose TFA funds are accessed or used in an EBT transaction at a prohibited location, there is nothing in Section 4004 that prohibits this option. A review of the preamble to the proposed federal regulations reveals that the Office of Family Assistance, Administration for Children and Families, Department of Health and Human Services contemplates that imposing penalties on recipients for violating the prohibitions is one option that states may take to comply with the federal regulations. *See* 79 Fed. Reg. 7127, 7132 (February 6, 2014).

(3) Difficulties associated with locating automated teller machines (ATMs)

Comment: Another comment expressed concern that ATMs can be moved from location to location, which may make it difficult for the department to accurately track the location of an ATM at any given time.

Response: The Department is mindful that ATMs are occasionally relocated and that this presents challenges when attempting to determine whether a particular EBT transaction occurred at a prohibited location. The proposed regulation requires the Department to provide recipients with advance notice of its intent to impose a penalty, and affords recipients the right to a hearing to contest a penalty, even a warning. If a recipient contends that the transaction did not occur at a prohibited location, the Department will investigate in order to ascertain the location of the ATM at the time of the transaction.

(4) Notice of restrictions

Comment: One comment recommended that the Department provide periodic notice of the restrictions imposed by the proposed regulation.

Response: While no change has been made to the proposed regulation based on this comment, the Department agrees that providing recipients with periodic notice of the restrictions is appropriate. Accordingly, the Department will provide a notice to all TFA recipients on an annual basis. More information about the Department's continued efforts to inform TFA recipients of the restrictions imposed by the proposed regulation is available in the Department's *Report on the State of Connecticut's Implementation of Policies and Practices Required by Public Law 112-96, Section 4004*, which is available on the Internet at <http://www.ct.gov/dss/lib/dss/pdfs/tanf/connecticutffa-ebtreport.pdf>.

(5) Indicator on ATMs at prohibited locations

Comment: Another comment suggested that ATMs at prohibited locations should bear a prominent sticker indicating that the ATM may not be used to conduct an EBT transaction involving TFA benefits.

Response: The Department believes its efforts to notify TFA recipients of the restrictions imposed by the proposed regulation are sufficient and that the costs associated with attempting to place a physical indicator on every ATM located at a prohibited location would outweigh any benefit associated with doing so. The Department will continue to evaluate the feasibility of and need for additional forms of notice, including the use of signs or stickers on ATMs located in prohibited locations.

(6) Timely review of EBT transactions

Comment: One comment encouraged the Department to ensure that its review of EBT transactions is completed in a timely fashion so that recipients are informed of prohibited transactions shortly after they occur.

Response: The Department shares the concern that timely review and notification of violations is essential to the implementation of this new policy. Accordingly, we revised the proposed regulation to require the Department to (1) audit EBT accounts for prohibited transactions each calendar month, and (2) construe all prohibited transactions that occurred during the same calendar month as a single violation. This will ensure that TFA recipients receive timely notice of a prohibited transaction and are not subjected to multiple penalties for numerous prohibited transactions that occur in a short period of time, before the Department has an opportunity to detect and notify the recipient of the prohibited transactions.

(7) Suspension of TFA benefits

Comment: One comment requested that the Department specify in the proposed regulation that any penalty resulting in a suspension of TFA benefits applies only to the individual in the assistance unit who conducted an EBT transaction in the prohibited location.

Response: The Department agrees that a suspension penalty should not be applied to the entire TFA assistance unit. We have revised the proposed regulation so that a suspension penalty applies only to the head of the TFA household. Because the head of the TFA household is the payee and ultimately responsible for the use of the household's EBT card, the Department believes it is most appropriate to apply any suspension penalty against this person, and has changed the proposed regulation accordingly.

(8) Access to benefits

Comment: Noting that Section 4004 requires states to ensure that recipients are able to access their cash benefits with minimal or no fees or charges, and to make information about this access publically available, one comment suggested that the proposed regulation should expressly address these issues.

Response: The portion of Section 4004 referenced by this comment dictates what information a state receiving a Temporary Assistance for Needy Families (TANF) block grant must include in its written plan on the operation of a TANF-funded family cash assistance program. Consequently, the Department has amended its state plan as required by Section 4004, but will make no change to the proposed regulation based on this comment. The Department's amended state plan is publically available on the Internet at <http://www.ct.gov/dss/cwp/view.asp?A=2352&Q=491876>.

Enclosure

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