

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Electronic Benefit Transfer (EBT) Regulations

The California Department of Social Services (CDSS) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at public hearings to be held June 19 and 21, 2002, as follows:

June 19, 2002
Office Building #9
744 P St. Auditorium
Sacramento, CA 95814

June 21, 2002
Community Care Licensing
1000 Corporate Center Dr., Suite 670
Monterey Park, CA 91754

The public hearings will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearings immediately following the completion of testimony presentations. The above-referenced facilities are accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by telefax to the address/number listed below. All comments must be received by 5:00 p.m. on June 21, 2002.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Anthony J. Velasquez, Chief
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CHAPTERS

Manual of Policies and Procedures, Division 16 (Electronic Benefit Transfer System), Chapter 16 (General), Sections 16-001 (General System Information), 16-003 (General Information), 16-005 (Definitions), 16-010 (County Interface and Administrative Transactions), and 16-015 (EBT Security); Chapter 16-100 (EBT Account), Section 16-105 (EBT Account Setup), 16-120 (Account Aging and Expungement), and 16-130 (Account Balance and Transaction History); Chapter 16-200 (EBT Benefits), Sections 16-201 (Benefit Authorization) and 16-215 (Benefit Availability); Chapter 16-300 (Benefit Transaction), Sections 16-301 (General Benefit Transaction), 16-310 (Food Stamp Transaction), 16-315 (Food Stamp Benefit Conversion), 16-320 (Cash Transaction), and 16-325 (Alternative Methods to EBT Cash Benefit Delivery); Chapter 16-400 (Settlement, Reconciliation, and Reporting), Sections 16-401 (Cash Settlement Process) and 16-410 (Food Stamp and Cash Reconciliation Process); Chapter 16-500 (EBT Card and PIN), Sections 16-501 (EBT Cardholders), 16-505 (Additional EBT Cardholders), 16-510 (EBT Card and PIN Issuance), 16-515 (Lost, Stolen, Inoperative EBT Card), 16-517 (EBT Card Replacement) and 16-520 (PIN Selection, Change, and Unlock); Chapter 16-600 (Training), Sections 16-601 (Cardholder Training) and 16-610 (County Training); Chapter 16-700 (Adjustments), Section 16-701 (Reserve - Error Resolution) and 16-750 (Food Stamp Overissuance Collections from EBT Accounts); and Chapter 16-800 (EBT Fraud and Suspected Violations), Section 16-801 (Fraud and Suspected Violations for Benefits Received Via the EBT System); and Division 20 (Fraud and Suspected Law Violations), Chapter 20-300 (Intentional Program Violations in the Food Stamp Program), Section 20-300 (Intentional Program Violations in the Food Stamp Program); and Division 44 (Standards of Assistance), Chapter 44-300 (Aid Payments), Sections 44-302 (Payment by Electronic Fund Transfer) and 44-304 (Aid Payment Schedules)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Welfare and Institutions Code Sections 18900 through 18919 authorize California to participate in the federal Food Stamp Program that is administered at the national level by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). The California Department of Social Services (CDSS) oversees the program that is administered at the local level by the county welfare departments. Public Law (P.L.) 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as codified at 7 USC 2016, mandates states to implement an electronic benefit transfer (EBT) system for food stamp benefit issuance no later than October 1, 2002 (for which California received waiver approval). Federal regulation 7 CFR 274.12 provides implementation requirements for an EBT issuance system for food stamp benefits as an alternative to issuing food stamp coupons. State legislation, AB 1542, establishes the authority for a statewide EBT system to issue food stamp benefits and, at county option, the issuance of cash benefits. An on-line EBT system is an issuance system in which benefits are stored in a central computer database and electronically accessed by cardholders at a point-of-sale (POS) terminal, automated teller machine (ATM), and other electronic fund transfer device utilizing a reusable plastic card.

EBT is an extension of debit card access to benefit funds from POS terminals (or ATMs) via electronic fund transfer networks. EBT is a proven technology and is operating in a majority of states.

Current state regulations do not provide the authority for an EBT issuance system. These regulations implement pertinent federal provisions regarding the operation of an EBT issuance system for the Food Stamp Program. Additionally, these regulations implement requirements in the Welfare and Institutions Code applicable to EBT benefit issuance for food stamps and, at county option, cash benefits. These regulations specify requirements regarding the EBT system, benefit accounts, EBT benefits, benefit transactions, adjustments, settlement, reconciliation and reporting,

EBT card and PIN, training, and fraud.

COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of approximately \$677,000 in the State Fiscal Year 2002-03.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Additional expenditures of approximately \$167,000 for Food Stamps and savings of approximately \$167,000 for CalWORKs.
4. Federal Funding to State Agencies: Additional expenditures of approximately \$1,626,000 in the State Fiscal Year 2002-03.

LOCAL MANDATE STATEMENT

These regulations implement issuance of Food Stamp and cash benefits via the EBT system. The regulations implementing issuance of cash benefits via the EBT system do not impose a mandate on local agencies or school districts because this is a county option as set forth in Welfare and Institutions Code Section 10069. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

The regulations implementing issuance of Food Stamp benefits via the EBT system do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by Federal Food Stamp regulations at 7 CFR 274.12.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

Food Stamp Program: The federal regulations and state legislation mandate the use of an EBT system for the issuance of food stamp benefits. FNS authorized food retailers are not required to participate in the EBT system. POS terminals will be provided to authorized retailers with food stamp redemption of at least \$100 per month that do not have, or do not intend to use, their own POS terminal. Those retailers with less than \$100 per month in food stamp redemption may obtain the equipment to participate in EBT at their own expense. Those choosing not to acquire their own equipment will be able to participate in EBT using manual vouchers or other alternatives approved by the state.

Because food stamp coupons will no longer be used, businesses, such as coupon issuers, that issued the coupons for the county welfare offices, will have a decrease in business.

EBT Cash Issuance: The state legislation includes a county option to issue cash benefits through the EBT system. Retailers are not required to participate in the EBT system.

In counties that choose the cash option, check cashers with CalWORKs clientele may have a decrease in business. Also, ATMs may have an increase in business dispensing cash to cash benefit recipients.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10077, 10553, 10554, 18904, and 18904.1 and 7 CFR 271.2. Subject regulations implement and make specific Welfare and Institutions Code Sections 10065, 10069, 10071, 10072, 10075.5, 10075.6, 10077, 10600, 10980, 11006.2, 15153.2; 7 CFR 271.1(a); 7 CFR 271.2; 7 CFR 271.3; 7 CFR 273.18(g) and (h); 7 CFR 274.2(d); 7 CFR 274.10(j); 7 CFR 274.12(a) [finalized April 1, 1992], (a), (f), (g), (h), (j), (i), (k); 7 CFR 278.1; FNS Letter to EBT Coordinators FS 9-5-1/EBT GEN, dated September 28, 1998; California Approved Waiver Request #980069 for 7 CFR 274.12(h)(7) [subsequently renumbered to 7 CFR 274.12(i)(7)]; California Approved Waiver Request #980070 and #980071 for 7 CFR 274.12(f)(7) and (f)(7)(i) [subsequently renumbered to 7 CFR 274.12(g)(7) and (g)(7)(i)]; California Approved Waiver Request #980090 for 7 CFR 274.12(f)(10)(ii) [subsequently renumbered to 7 CFR 274.12(g)(10)(ii)]; California Approved Waiver Request #980091 for 7 CFR 274.12(f)(5)(ii) [subsequently renumbered to 7 CFR 274.12(g)(5)(ii)]; California Approved Waiver Request #2000040 for 7 CFR 274.12(h)(7)(iii) [subsequently renumbered to 7 CFR 274.12(i)(7)(iii)]; Preamble, Federal Register, Vol. 57, No. 63, April 1, 1992; and Administrative Notice 00-57, dated August 11, 2000.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez (916) 657-2586
Backup: Maureen Miyamura (916) 657-2586

CDSS REPRESENTATIVE REGARDING SUBSTANCE OF THE PROPOSED REGULATION

Program Contact: Stan Cagle 654-1529
Backup: Nancy Yee 654-1065

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

AGENDA ITEM FOR THESE PUBLIC HEARINGS - June 19, 2002 and June 21, 2002

ITEM #1 ORD # 0202-04 Electronic Benefit Transfer (EBT) Regulations