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Prohibited Items and Locations Report

July 2021



DEPARTMENT OF TRANSITIONAL ASSISTANCE PROHIBITED ITEMS AND LOCATIONS REPORT

JULY 2021

OVERVIEW

The Department of Transitional Assistance (DTA) is pleased to submit this report on the enforcement of Electronic Benefit Transfer (EBT) prohibition on certain items and at certain locations, as required by sections 5I of Chapter 18 of the Massachusetts General Laws.

AGENCY OVERVIEW

DTA's mission is to assist and empower low-income individuals and families to meet their basic needs, improve their quality of life, and achieve long-term economic self-sufficiency. DTA offers a comprehensive system of programs and supports to help individuals and families achieve greater economic self-sufficiency, including food and nutritional assistance, economic assistance, and employment supports. DTA serves one out of every eight people in the Commonwealth including working families, children, elders, and people with disabilities.

PROGRAM INTEGRITY DIVISION

Preventing fraud, waste, and abuse is a top priority of DTA to ensure that every benefit dollar goes to individuals and families who truly need it. The Program Integrity Division of DTA performs critical agency functions, including the oversight of fraud investigations and overpayment collection, audit supervision, regulatory compliance, and more.

There are a number of channels through which suspected fraud can be identified by or reported to the agency. Internally, referrals are generated from case managers, as a result of findings from interagency electronic data matches, or by way of advanced analytics. DTA also maintains a fraud hotline, where allegations of fraud can be reported anonymously. Each case of potential fraud is reviewed and investigated by the Fraud Investigations and Data Matching Unit to determine whether the allegation can be substantiated. If DTA substantiates an allegation of fraud, appropriate action can be taken, including but not limited to case closure or a referral being made to the appropriate agency for investigation.

REFERRALS TO THE BUREAU OF SPECIAL INVESTIGATIONS

DTA is responsible for identifying cases where fraud may exist and pursuing those cases administratively. Because DTA is not a law enforcement agency, cases that are unable to be fully pursued administratively are identified and referred to the State Auditor's Bureau of Special Investigations (BSI) for a more comprehensive investigation that may result in criminal charges. BSI is charged with the criminal investigation of claims of fraudulent or wrongful receipt of payment or services for all public assistance programs throughout the Commonwealth.

The cases investigated and reported by BSI have been referred to them by DTA to ensure appropriate action can be taken on those attempting to defraud the Commonwealth. In Fiscal Year 2021, 1,933 cases were referred to BSI by the Department. This figure decreased from the previous fiscal year, which is primarily driven by the agency pursuing federal and state-level flexibilities aimed at minimizing administrative actions against applicants and clients at the outset of the public health emergency and while the Department transitioned to fully remote operations.

PROGRAM VIOLATIONS

Program violations are broken down into two categories, intentional or unintentional.

- An Intentional Program Violation (IPV) occurs if a hearing officer finds that a client purposefully made a false or misleading statement or representation or concealed or withheld facts from DTA to obtain benefits for which they did not qualify.¹ A recipient can also be charged with a program violation for using their EBT card to make a prohibited purchase.
- An Unintentional Program Violation (UPV) is when an individual does not report or delays reporting a change in household status without the intent to mislead or misrepresent their circumstances.

As of June 11, 2021, approximately 86 cases were closed due to an IPV in Fiscal Year 2021 and another 475 were closed due to a UPV. There was \$13,578 in savings attributable to discontinued benefits due to IPVs, and \$97,711 in savings attributable to discontinued benefits for UPVs over the same time period. These figures represent a decrease from the previous fiscal year, which is primarily driven by the agency pursuing federal and state-level flexibilities aimed at minimizing administrative actions against applicants and clients at the outset of the public health emergency and while the Department transitioned to fully remote operations. The cases closed as a result of UPV and IPV in this fiscal year account for a total overpayment amount of \$337,376.92, which will eventually be repaid by clients who received these benefits.

The majority of identified violations are related to the Supplemental Nutrition Assistance Program (SNAP). Contextually, DTA provided SNAP benefits to 568,486 households in May 2021, while 25,295 households received benefits through Transitional Aid to Families with Dependent Children (TAFDC) and 19,956 households received benefits through Emergency Aid to the Elderly, Disabled, and Children (EAEDC). Prior to the COVID-19 public health emergency, caseloads had remained relatively stable. However, the economic impact of the pandemic has driven notable shifts to the state's SNAP and TAFDC caseloads in particular. The state's May 2021 caseload reflects an increase of more than 100,000 SNAP households over the pre-pandemic caseload. The state's TAFDC caseload has experienced an approximately 5,000

¹ IPVs are determined through administrative disqualification hearings (ADHs). ADHs were temporarily suspended as part of the agency's response to the COVID-19 public health emergency. The Program Integrity Division continued to investigate, identify, and refer appropriate cases to the Department's Division of Hearings (DOH) throughout the public health emergency. DTA will be reinstating ADHs in early FY22 to adjudicate cases referred to DOH for a hearing.

household decrease compared to the program's pre-pandemic caseload. DTA provides updates to caseload information monthly via the DTA website.²

ENFORCEMENT OF MGL CHAPTER 18, SECTIONS 5I AND 5J

Recipients of economic assistance benefits administered by DTA may access their benefits using an electronic benefits transfer (EBT) card at a point of sale (POS) retail terminal or by withdrawing funds from an automated teller machine (ATM). Chapter 18 of the Massachusetts General Laws limits where economic assistance funds may be used, and the items that can be purchased with those funds. SNAP benefits are unable to be redeemed for cash at ATMs or through cash back options at POS terminals.

To limit the use of economic assistance at locations where prohibited, DTA closely monitors ATM and POS transactions made by recipients in retail and other establishments and has been doing so since February 2013. Each year, DTA's Program Integrity Unit monitors millions of EBT transactions to ensure that recipients are not using their economic assistance benefits at prohibited locations and, where possible, to help ensure that prohibited items are not being purchased.

As of June 11, 2021, DTA blocked more than 658 additional POS and ATM terminals at prohibited locations in Fiscal Year 2021, bringing the total of blocked terminals in the state to 4,072. Establishments that exclusively or primarily sell alcohol represent the majority of the prohibited establishments, however prohibited locations also include smoke shops, casinos, cruise ships, tattoo parlors, nail salons, recreational marijuana establishments, and more.

The process of blocking establishments prohibited from accepting EBT cards is ongoing, and DTA continues to work with third party processors to enhance and expand this initiative.

RETAILER TRAINING AND OUTREACH

Working with retailers is essential to the success of DTA's program integrity efforts. Outreach and education to existing and new retailers across the Commonwealth is performed by DTA staff to ensure they understand their responsibilities. In particular, DTA conducts outreach and provides training to small, independent stores and retailers across the Commonwealth to ensure owners and employees are aware of their legal responsibilities. DTA has developed signage that is available for download on the DTA website indicating products that are ineligible for purchase with economic assistance. The signage utilizes text and graphics to note what constitutes a prohibited item. Any business that accepts payments via EBT cards is required to post the signage.³

² DTA Caseload by Zip Code Monthly Report (<https://www.mass.gov/lists/department-of-transitional-assistance-caseload-by-zip-code-reports>)

³ M.G.L. Ch. 18, Sec. 5N

RECREATIONAL MARIJUANA LEGALIZATION

In 2017, when the sale of recreational marijuana was legalized, the Legislature amended the list of prohibited items and locations to include recreational marijuana.⁴

DTA has developed a responsive protocol to engage all newly licensed retail recreational marijuana establishments and make them aware of their legal obligation regarding the acceptance of DTA economic assistance. The protocol includes an initial letter sent from DTA's Commissioner to new licensees informing them of relevant law and potential sanctions for violations of the law. The Program Integrity Division works with licensees to answer questions, provide resources, and conduct on-site visits to ensure DTA's ATM and POS blocking initiative, which has been extended to retail recreational marijuana establishments, is working properly.

At the time of this report, DTA has engaged and visited all 139 operational recreational marijuana locations in the Commonwealth. As a result, the Department has blocked more than \$14,525 worth of attempted cash withdrawals at these locations. Ongoing monitoring of EBT transactions by the Program Integrity Division will allow DTA to respond as necessary to any prohibited purchases or attempted purchases at any licensed recreational marijuana establishments. As the Cannabis Control Commission continues to approve retail licenses across the Commonwealth, DTA will continue to engage licensees and monitor relevant transactions to ensure compliance by retailers and clients.

CONCLUSION

The Program Integrity Division is committed to preventing fraud, waste, and abuse and ensuring that every benefit dollar goes to individuals and families who truly need it. As the state has begun to focus on the economic recovery from impacts associated with the pandemic, DTA will continue to prioritize programmatic integrity across the critical benefit programs it administers in the Commonwealth.

⁴ M.G.L. Chapter 18, Secs. 5I and 5J (As amended by Chapter 55 of the Acts of 2017)