



United States Department of Agriculture

Food and  
Nutrition  
Service

FEB 26 2014

3101 Park  
Center Drive  
Alexandria, VA  
22302-1500

The Honorable Mary Mayhew  
Commissioner  
Department of Health and Human Services  
11 State House Station  
221 State Street  
Augusta, Maine 04333

Dear Commissioner Mayhew:

The Maine Department of Health and Human Services (DHHS) has informed the Food and Nutrition Service (FNS) that it intends to require a photograph of one or more household members on the State's Electronic Benefits Transfer (EBT) card. We understand that DHHS is already taking action to implement this option, allowable under 7 CFR 274.8(b)(5)(iv) of the Supplemental Nutrition Assistance Program (SNAP) regulations.

The addition of photos to the EBT card, especially in a State that has never done so before, is a very sensitive issue for clients, advocates and retailers. Because of the complex legal, operational, and civil rights issues that have arisen around the implementation of photo EBT cards elsewhere, as well as the potential risk for litigation should something go wrong, FNS must work closely with DHHS to ensure that implementation is seamless and within the bounds of law and regulation. In order to do so, we request information indicating that the photo EBT card process will not adversely affect day-to-day SNAP operations, and a written plan that addresses the following:

1. Timetable with specific action steps for DHHS and its EBT contractor regarding photo EBT card implementation. The timetable should address the procurement of any software and hardware for taking photos in local offices, storing the images and integrating them into the card production process, and the transition of current and new caseload to photo EBT cards over time.
2. Description of capacity at the facility where the photo cards will be produced, both for transition and ongoing production, and confirmation that the State and its EBT contractor will continue to meet regulatory time requirements for all EBT card issuance.
3. Identification of any outside agencies from which existing photos will be acquired and the process for obtaining photos from remaining households.
4. Description of the universe of clients and/or authorized representatives that will be required to submit to photos, and persons who will be exempt from the photo requirement, such as elderly and disabled clients, non-applicant heads of household, and others as determined by DHHS.

5. Explanation of how DHHS will ensure federal law and regulations are followed so that:
  - a. Household members and authorized representatives who are not pictured on the card can continue to access SNAP benefits.
  - b. Retailers understand that if photos are checked on EBT cards, they must also check cards of credit and debit customers in order to avoid unequal treatment violations.
  - c. The photo EBT card requirement will be administered in a manner consistent with the civil rights requirements under Section 11(c) of the Food and Nutrition Act of 2008, particularly as applied to household members, the person whose photograph appears on the EBT card, and non-applicant heads of households who are parents or guardians of SNAP eligible minors.
6. Description of any client, retailer or community outreach or training DHHS will perform.
7. Explanation of the methods to be used to activate the new photo EBT cards and disable the old cards to assure uninterrupted benefit access.
8. Resources that will be in place to handle calls from clients or retailers and unexpected events related to photo EBT card issuance.

In addition, please provide drafts for FNS review of any applicable written policy that will be necessary, including a prohibition against collection of photos for any non-applicant household members including non-applicant heads of households, and procedures, training materials, or correspondence affecting local offices, clients and retailers with regard to the new photo EBT cards.

We also remind you that any EBT contract modifications that increase costs require approval by FNS before signing. Increased EBT costs, whether contractual or procured from other sources also require an Implementation Advance Planning Document Update.

There have also been reports that the State of Maine plans to limit interoperability and the universe of store types that can be accessed by EBT cardholders. It was not clear whether this will apply only to the EBT cash account or is also intended to include SNAP. Please note that 7 CFR 274.8(b)(10) requires that the "EBT system must enable [SNAP] benefits issued in the form of an EBT card to be used in any State by a household to purchase food at [any] retail food store or a wholesale food concern approved under the Food and Nutrition Act of 2008." States may impose no limitations regarding State borders or store types. Please confirm that Maine SNAP recipients will continue to be able to use their benefits in any FNS authorized retailer in any State or other jurisdiction that operates a federal SNAP EBT program.

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Please provide your implementation plan addressing the above points as soon as possible, but no later than 45 days from the date of this letter. It is essential that any action that will have a direct impact on clients, retailers or local DHHS staff is deferred until FNS has had the opportunity to review and approve the plan. Implementation prior to approval may put the State at risk of losing Federal Financial Participation.

Should you or your staff have any questions regarding this letter and our concerns, please contact Interim Northeast Regional Administrator Patricia Dombroski at (617) 565-6370 or [Patricia.Dombroski@fns.usda.gov](mailto:Patricia.Dombroski@fns.usda.gov). We appreciate your efforts to ensure that photo EBT cards are implemented without incident.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Shahin', with a long horizontal line extending to the right.

Jessica Shahin  
Associate Administrator  
Supplemental Nutrition Assistance Program