

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1401 Public Assistance

SPONSOR(S): Health Care Appropriations Subcommittee; Health & Human Services Access Subcommittee; Plakon

TIED BILLS: **IDEN./SIM. BILLS:** SB 1658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	8 Y, 6 N, As CS	Batchelor	Schoolfield
2) Health Care Appropriations Subcommittee	9 Y, 5 N, As CS	Fontaine	Pridgeon
3) Health & Human Services Committee	13 Y, 5 N	Batchelor	Gormley

SUMMARY ANALYSIS

The bill amends ss. 402.82 and 414.095, F.S., relating to the Supplemental Nutrition Assistance Program and the Temporary Cash Assistance Program. The bill:

- Prohibits a recipient from using his or her electronic benefit transfer (EBT) card to access cash benefits outside this state, to purchase alcohol or tobacco products, to access automated teller machines (ATM) located in specific gambling and adult entertainment establishments, or to use the card for purchases in these establishments; and,
- Provides a list of establishments inside the state that a cash assistance recipient may not access cash benefits through an EBT card from an ATM.

The bill has an approximate fiscal impact of \$35,000 associated with the restriction of EBT cards at all ATMs located outside of Florida and at ATMs in certain establishments in Florida. This impact can be absorbed within existing departmental resources.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

History of the Food Stamp Program

The food stamp program began in 1939, providing a discount for surplus food to people on relief. From 1939-1943, those who qualified were able to purchase stamps redeemable for the purchase of food, and were given additional stamps redeemable only towards purchasing surplus food.¹ In 1961, the Pilot Food Stamp Program was created by President Kennedy. The pilot program used the original food stamp program, but did not limit the use of additional stamps toward surplus food; those stamps could be used for perishables as well.²

The Food Stamp Act of 1964 made the program permanent and expanded the use of food stamps to “all items eligible for consumption, with the exception of alcohol and imported foods.”³ Since then a number of changes and reforms to the program have taken place including changing the name of the program to the Supplemental Nutrition Assistance Program (SNAP), changing eligibility determinations and the introduction of the use of an Electronic Benefits Transaction card (EBT).⁴

Supplemental Nutrition Assistance Program-SNAP (Federal Program)

SNAP is a federal program that is administered by the individual states. SNAP aims to “provide children and low income people access to food, a healthy diet, and nutrition education.”⁵

The Food and Nutrition Act of 2008 defines “eligible food” as “any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption.”⁶ Eligible food also includes seeds and plants to grow foods for personal consumption, as well as some additional exceptions to allow for hot food products ready for consumption in certain circumstances.⁷

Florida Food Assistance Program (SNAP)

The Florida Department of Children and Families (DCF) administers the state’s food assistance program.⁸ The Food Assistance Program is a 100 percent federally-funded program. The United States Department of Agriculture (USDA) determines the amount of food assistance benefits an individual or family receives, based on the families’ income and resources.⁹ Food assistance benefits are a supplement to a family’s food budget. Households may need to spend some of their own cash, along with their food assistance benefits, to buy enough food for a month.¹⁰ State law provides that DCF shall establish procedures in compliance with federal law for notifying the appropriate federal and state agencies of any violation of law regarding the food assistance program and the department must also notify the Department of Financial Services.¹¹

¹ A Short History of SNAP, USDA Food and Nutrition Service, available at: <http://www.fns.usda.gov/snap/rules/Legislation/about.htm>. (last visited 1/27/12).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Nutrition Assistance Programs, USDA Food and Nutrition Service, available at: <http://www.fns.usda.gov/fns/>. (last visited 1/27/12).

⁶ 7 C.F.R. s. 271.2.

⁷ P.L. 110-246, provides that certain individuals because of age, disability or living arrangement may purchase hot foods with their SNAP EBT card.

⁸ s. 414.31, F.S.

⁹ *Id.*

¹⁰ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf. (last visited 1/27/12).

¹¹ s. 414.33, F.S.

Currently, the state does not have any restrictions on the types of foods that can be purchased under the food assistance program¹², as the USDA does not allow for such restrictions.¹³ DCF reports that approximately 3,311,095 people are currently receiving food stamps at approximately \$450 million dollars annually.¹⁴

Temporary Assistance for Needy Families (TANF)

Under the welfare reform legislation of 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PWRORA), Public Law 104-193, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children (AFDC), the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides States, territories and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in February 2006 under the Deficit Reduction Act of 2005.¹⁵ States receive block grants to operate their individual programs and to accomplish the goals of the TANF program. DCF administers the TANF program in conjunction with the Agency for Workforce Innovation.

Temporary Cash Assistance Program (Cash Assistance)

DCF administers the cash assistance program with TANF funds to help families become self-supporting while allowing children to remain in their own homes.¹⁶ Current law provides that families are eligible for temporary cash assistance for a lifetime cumulative total of 48 months (4 years).¹⁷ DCF reports that approximately 92,979 people are currently receiving temporary cash assistance.¹⁸ The FY 2011-2012 appropriation of TANF funds to support temporary cash assistance was \$177,522,123.

Use of the Electronic Benefits Card

Both temporary cash assistance and food assistance monies are placed on an Electronic Benefits Transaction (EBT) card. Once an individual applies for cash assistance or food assistance with DCF, they will receive an EBT card in the mail¹⁹, the card functions much like a credit card or debit card. Food assistance money can be used at any retail store that accepts the EBT SNAP card. Cash assistance money can be used to purchase a variety of items and may also be used at automatic teller machines (ATM's). Currently, there are no prohibitions on the use of the EBT card for out of state purchases. DCF estimates that on average approximately 200 cash assistance recipients use an EBT card out of state for more than 90 days, at approximately \$49,000 a month.²⁰ Current DCF rule²¹ provides that cash assistance benefits can continue for one month after an individual has left the state, if the recipient requests the extension.²² Additionally, DCF permits households who are temporarily absent from the state to access cash assistance for two months if they plan to return to the state.²³

¹² DCF Bill Analysis, HB 1401(2012). (on file with committee staff)

¹³ C.F.R. s. 271.2.

¹⁴ DCF Standard Data Reports. <http://www.dcf.state.fl.us/programs/access/StandardDataReports.asp>. (last visited 1/27/12).

¹⁵ US Dept. of Health and Human Services, Administration on Children and Families

<http://www.acf.hhs.gov/programs/ofa/tanf/about.html> (last visited on 12/21/11).

¹⁶ DCF Food Assistance Program Fact Sheet, www.dcf.state.fl.us/programs/access/docs/fafactsheet.pdf .(last visited 1/4/12).

¹⁷ Section 414.105, F.S.

¹⁸ DCF Standard Data Reports. <http://www.dcf.state.fl.us/programs/access/StandardDataReports.asp>. (last visited 12/22/11).

¹⁹ Department of Children and Families Access Program. <http://www.dcf.state.fl.us/programs/access/foodassistance.shtml>. (last visited 1/27/12).

²⁰ DCF Bill Analysis, HB 1401(January 11, 2012). (on file with committee staff).

²¹ 65A-4.220(6). F.A.C.

²² *Id.*

²³ *Id.*

Effect of Proposed Changes

EBT Card Use Out of State

This bill provides that the EBT system shall prevent a recipient from using an EBT card to access cash benefits outside this state. DCF reports that this restriction can be accomplished through the card vendor JP Morgan, Inc²⁴. However, there would be no prohibition for recipients to access cash from the EBT card while in the state and then travel out of state. This limitation may also negatively impact families that live near the Alabama or Georgia border who frequent out of state vendors.

Certain situations may necessitate that beneficiaries leave the state, such as domestic violence relocations. While this bill prohibits the access of cash benefits from ATMs located out-of-state, nothing precludes beneficiaries from withdrawing funds before leaving Florida or establishing direct deposit to their financial institution.²⁵ The cash benefits can then be accessed from out-of-state ATMs as needed since the beneficiary's personal debit card is being used rather than the restricted EBT card.

Restrictions on Use of EBT Card Cash Assistance

Currently, the EBT card has both cash assistance and food assistance money on the same card. Neither federal law nor state law prohibits items that can be purchased with cash assistance.

The bill requires DCF to restrict the use of the EBT card, cash assistance portion, for the purchase of alcohol or tobacco products. DCF reports that the cash assistance portion of the card currently does not have the processing infrastructure to identify items being purchased which contain alcohol or tobacco products. DCF indicates they will need to implement contracts with various establishments that sell alcohol or tobacco products to prevent purchases from taking place.²⁶ The number of establishments that DCF would need to contract with is unknown and would include a range of establishments, including but not limited to, grocery stores and convenience stores. In addition, a recipient of cash assistance could still access an ATM and withdraw money from the card to purchase alcohol or tobacco products.

Restrictions on Use of ATMs or EBT Cards in Certain Establishments

The bill specifies that a recipient may not use an ATM in this state, if the ATM is located in certain establishments or facilities. In addition, the bill prohibits the use of an EBT card to purchase any service or good from certain establishments or facilities. The establishments or facilities include:

- An adult entertainment establishment;
- A pari-mutuel facility;
- A gaming facility under a tribal-state compact;
- A commercial bingo facility;
- Certain retail establishments licensed under the Beverage Law and bottle clubs;
- A gambling establishment – including internet cafés, corner store casinos, internet gambling café, etc.; or,
- A card room.

Many retail establishments sell restricted alcoholic and tobacco products alongside allowable food products. This bill specifies the establishments where cash benefits may not be accessed using an ATM by distinguishing retailers that are visited primarily to purchase restricted alcoholic products. This distinction will allow cash beneficiaries to continue using ATMs in places where permissible food items are available for purchase (e.g., supermarkets).

²⁴ Telephone interview with Ann Berner, Director, DCF ACCESS program, January 28, 2012

²⁵ Based on e-mail communication with Amanda Prater, Legislative Affairs Director, DCF. On file with committee staff and dated 02/13/2012.

²⁶ Telephone interview with Ann Berner, Director, DCF ACCESS program, January 28, 2012

DCF would need to work with Third Party Processors and Networks in order to prohibit the use of ATMs and terminals in gambling and adult entertainment establishments from processing EBT transactions.²⁷

General:

The bill clarifies in statute that cash assistance may be placed on an EBT card. DCF currently is placing cash assistance on EBT cards, in compliance with federal program changes.

B. SECTION DIRECTORY:

Section 1: Amends s. 402.82, F.S., relating to Electronic benefit transfer program;

Section 2: Amends s. 414.095, F.S., relating to Determining eligibility for temporary cash assistance;

Section 3: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill restricts all use of EBT cards to access cash benefits via ATMs outside of Florida and ATMs in certain establishments located within Florida. DCF estimates the programmatic changes required of the EBT vendor to cost \$35,000. This expenditure can be absorbed within existing departmental resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to impact local government revenue.

2. Expenditures:

This bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to impact the private sector.

D. FISCAL COMMENTS:

This bill restricts all use of EBT cards at ATMs located outside of Florida and to ATMs in certain establishments located in Florida. DCF estimates the programmatic changes required of the EBT vendor to cost \$35,000. This expenditure can be absorbed within existing departmental resources.

²⁷ DCF Bill Analysis, HB 1401(January 11,2012). (on file with committee staff).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2012, the Health and Human Services Access Subcommittee adopted an amendment to House Bill 1401, which was reported favorably as a Committee Substitute. The amendment does the following:

- Removes the word “unhealthy” from the list of foods that may not be purchased with the Supplemental Nutrition Assistance Program;
- Removes the phrase “but not limited to” from the list of foods that may not be purchased with the Supplemental Nutrition Assistance Program;
- Replaces the word “Jello” with the phrase “gelatin dessert”.

On February 13, 2012, the Healthcare Appropriations Subcommittee adopted two amendments to Committee Substitute for House Bill 1401, which was reported favorably as a committee substitute for a committee substitute. This analysis is based on the two adopted amendments, which accomplish the following:

- Remove provisions in the original bill that prohibit certain foods for purchase with federal Supplemental Nutrition Assistance Program funds; prohibit the use of program benefits at restaurants; direct DCF to promote certain eating habits using culturally sensitive campaigns; seek federal approval to implement these state restrictions upon the federally-funded program; and,
- Further specify the type of establishment licensed under the Beverage Law where a cash recipient may not access benefits via an ATM using an electronic benefit transfer (EBT) card.