

the Secretary of Agriculture to submit to Congress, not later than Oct. 1, 2003, a report related to State agencies' use of electronic benefit transfer systems to issue benefits under the supplemental nutrition assistance program.

CONGRESSIONAL STATEMENT OF PURPOSE

Pub. L. 106-171, §2, Feb. 11, 2000, 114 Stat. 3, as amended by Pub. L. 110-234, title IV, §4002(b)(1)(A), (D), (2)(F), May 22, 2008, 122 Stat. 1095-1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(A), (D), (2)(F), June 18, 2008, 122 Stat. 1664, 1857, 1858, provided that: "The purposes of this Act [amending this section and enacting provisions set out as notes under this section and section 2011 of this title] are—

"(1) to protect the integrity of the supplemental nutrition assistance program;

"(2) to ensure cost-effective portability of supplemental nutrition assistance program benefits benefits [sic] across State borders without imposing additional administrative expenses for special equipment to address problems relating to the portability;

"(3) to enhance the flow of interstate commerce involving electronic transactions involving supplemental nutrition assistance program benefits benefits [sic] under a uniform national standard of interoperability and portability; and

"(4) to eliminate the inefficiencies resulting from a patchwork of State-administered systems and regulations established to carry out the supplemental nutrition assistance program."

STUDY OF ALTERNATIVES FOR HANDLING ELECTRONIC BENEFIT TRANSACTIONS INVOLVING FOOD STAMP BENEFITS

Pub. L. 106-171, §4, Feb. 11, 2000, 114 Stat. 6, as amended by Pub. L. 110-234, title IV, §4002(b)(1)(B), (D), (2)(F), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(B), (D), (2)(F), June 18, 2008, 122 Stat. 1664, 1857, 1858, directed the Secretary of Agriculture, not later than 1 year after Feb. 11, 2000, to study and report to Congress on alternatives for handling interstate electronic benefit transactions involving supplemental nutrition assistance program benefits, including use of a single switching hub.

SUSPENSION OF STAGGERED ISSUANCE OF FOOD STAMP COUPONS

Pub. L. 102-237, title IX, §908(a)(1), Dec. 13, 1991, 105 Stat. 1886, as amended by Pub. L. 103-11, §1, Apr. 1, 1993, 107 Stat. 41; Pub. L. 103-205, §1, Dec. 17, 1993, 107 Stat. 2418, provided that no State agency be required to implement 7 U.S.C. 2016(h)(1), regarding staggering of issuance of food stamp coupons, until Mar. 15, 1994, and directed Secretary of Agriculture to issue final regulations requiring staggered issuance of coupons no later than Dec. 1, 1992, prior to repeal by Pub. L. 103-225, title I, §104(a), Mar. 25, 1994, 108 Stat. 107.

FOOD STAMP COUPONS, COST INCREASE SUSPENSION

Pub. L. 94-4, Feb. 20, 1975, 89 Stat. 6, provided that notwithstanding the provisions of 7 U.S.C. 2016(b), the charge imposed on any household for a coupon allotment under this chapter after Feb. 20, 1975, and prior to Dec. 30, 1975, could not exceed the charge that would have been imposed on such household for such coupon allotment under rules and regulations promulgated under this chapter and in effect on Jan. 1, 1975.

§ 2016a. EBT benefit fraud prevention

(a) Guidance; rulemaking

The Secretary shall—

(1) issue guidance to State agencies, on an ongoing basis, as informed by the process outlined in paragraph (4), that describes security measures that—

(A) are effective, as determined by the Secretary, in detecting and preventing theft of

benefits, including through card skimming, card cloning, and other similar fraudulent methods;

(B) are consistent with industry standards for detecting, identifying, and preventing debit and credit card skimming, card cloning, and other similar fraudulent methods; and

(C) consider the feasibility of cost, availability, and implementation for States;

(2) promulgate regulations through notice-and-comment rulemaking to require State agencies to take the security measures described in the guidance issued under paragraph (1);

(3) not later than December 1, 2023, promulgate regulations (including an interim final rule) to require State agencies to implement procedures for the replacement of benefits consistent with subsection (b);

(4) coordinate with the Administrator of the Administration for Children and Families of the Department of Health and Human Services, the Attorney General of the United States, State agencies, retail food stores, and EBT contractors—

(A) to determine—

(i) how benefits are being stolen through card skimming, card cloning, and other similar fraudulent methods;

(ii) how those stolen benefits are used; and

(iii) the locations where card skimming, card cloning, and other similar fraudulent methods are taking place;

(B) to establish measures, including equipment enhancements for retail food stores, to prevent benefits from being stolen through card skimming, card cloning, and other similar fraudulent methods; and

(C) to establish standard reporting methods for States to collect and share data with the Secretary on the scope of benefits being stolen through card skimming, card cloning, and other similar fraudulent methods; and

(5) not later than December 1, 2024, submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report that includes—

(A) information on the frequency of theft of benefits and the location of those thefts, including benefits stolen through card skimming, card cloning, and other similar fraudulent methods;

(B) a description of the determinations made under paragraph (4)(A), the measures established under paragraph (4)(B), and methods established in paragraph (4)(C);

(C) a description of the industry standards described in paragraph (1)(B);

(D) a comparison of State plans related to reimbursement, prevention, and other relevant procedures approved in accordance with subsection (b)(1)(A); and

(E) recommendations on how to consistently and proactively detect, track, report, and prevent theft of benefits, including benefits stolen through card skimming, card cloning, and other similar fraudulent methods.

(b) Replacement of benefits

The Secretary shall use funds appropriated under section 2027 of this title to require States to replace benefits that are determined by the State agency to have been stolen through card skimming, card cloning, or similar fraudulent methods, subject to the conditions that—

(1) the State agency shall submit to the Secretary not later than 60 days after December 29, 2022, for prior approval a plan for the replacement of stolen benefits that—

(A) includes appropriate procedures, as determined by the Secretary, for the timely submission of claims to, timely validation of claims by, and replacement issuance by the State agency that includes—

(i) a signed statement by the affected household on the benefit theft, consistent with the signature requirements and options provided by section 2020(e)(2)(C) of this title;

(ii) criteria to determine if a submitted claim is valid;

(iii) procedures for the documentation of replacement issuances, including the submitted claims and findings from the validation;

(iv) the submission of data reports on benefit theft and replacement activity to the Secretary;

(v) procedures to inform households of their right to a fair hearing, consistent with those already established by section 2020(e) of this title and corresponding regulations concerning replacement issuances; and

(vi) the State agency's use and planned use of benefit theft prevention measures, including any additional guidance that may be issued under subsection (a)(1);

(B) includes appropriate procedures, as determined by the Secretary, for reporting the scope and frequency of card skimming affecting households within the State to the Secretary;

(C) upon approval shall be incorporated into the State plan of operation required under section 2020(e) of this title; and

(D) the Secretary may approve after the date on which guidance is issued under subsection (a)(1);

(2) the replacement of stolen benefits for a household—

(A) shall not exceed the lesser of—

(i) the amount of benefits stolen from the household; or

(ii) the amount equal to 2 months of the monthly allotment of the household immediately prior to the date on which the benefits were stolen;

(B) shall not occur more than 2 times per Federal fiscal year per household by a single State agency; and

(C) shall only apply to benefits stolen during the period beginning on October 1, 2022, and ending on December 20, 2024;

(3) plans approved under paragraph (1) will remain in effect until the effective date of the rule promulgated pursuant to subsection (a)(3); and

(4) replacements of benefits under this section shall not be regarded as losses for the purpose of section 2016(e) of this title to the extent such replacements are made in accordance with an approved plan that complies with this subsection.

(c) Definitions

In this section, the terms “allotment”, “benefit”, “household”, “retail food store”, and “State agency” have the meaning given those terms in section 2012 of this title.

(d) Rescission

Of the unobligated balances made available for the Supplemental Nutrition Assistance Program as authorized by section 1101(b)(1) of the American Rescue Plan Act of 2021 (Public Law 117-2), \$8,000,000 is hereby rescinded.

(e) Comptroller General**(1) In general**

Not later than 1 year after September 26, 2024, the Comptroller General of the United States shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that examines risks related to supplemental nutrition assistance program electronic benefit transfer payment system security, including the risk of stolen benefits through card skimming, card cloning, and other similar methods.

(2) Contents

The report under paragraph (1) shall include an assessment of—

(A) the extent to which the Department of Agriculture manages payment system security, including risks related to stolen benefits, compared to leading industry practices;

(B) the manner in which States, retailers, and other relevant entities manage risks related to stolen benefits;

(C) the oversight of and guidance provided by the Secretary to States regarding stolen benefits; and

(D) recommendations and policy options for—

(i) improving how the Department of Agriculture and other relevant entities manage payment system security risks, including those related to stolen benefits; and

(ii) how the Department of Agriculture may best share those improvements with States, retailers, and other relevant entities.

(Pub. L. 117-328, div. HH, title IV, §501, Dec. 29, 2022, 136 Stat. 5985; Pub. L. 118-83, div. B, title I, §105, Sept. 26, 2024, 138 Stat. 1534.)

Editorial Notes

REFERENCES IN TEXT

Section 1101(b)(1) of the American Rescue Plan Act of 2021, referred to in subsec. (d), is section 1101(b)(1) of Pub. L. 117-2, title I, Mar. 11, 2021, 135 Stat. 15, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2023, and not as part of the Food and Nutrition Act of 2008 which comprises this chapter.

AMENDMENTS

2024—Subsec. (a)(4)(A)(iii). Pub. L. 118–83, §105(1)(A), struck out at beginning “to the maximum extent practicable.”

Subsec. (a)(5). Pub. L. 118–83, §105(1)(B)(i), substituted “December” for “October” in introductory provisions.

Subsec. (a)(5)(A). Pub. L. 118–83, §105(1)(B)(ii), struck out at beginning “to the maximum extent practicable.”

Subsec. (a)(5)(D). Pub. L. 118–83, §105(1)(B)(iii), (v), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (a)(5)(E). Pub. L. 118–83, §105(1)(B)(iv), (vi), redesignated subpar. (D) as (E) and inserted “and proactively” after “consistently”.

Subsec. (b)(2)(C). Pub. L. 118–83, §105(2), substituted “December 20, 2024” for “September 30, 2024”.

Subsec. (e). Pub. L. 118–83, §105(3), added subsec. (e).

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

Pub. L. 117–328, div. HH, §101, Dec. 29, 2022, 136 Stat. 5970, provided that: “In this division [see Tables for classification], the term ‘Secretary’ means the Secretary of Agriculture.”

§ 2017. Value of allotment**(a) Calculation**

The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the supplemental nutrition assistance program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household’s income, as determined in accordance with section 2014(d) and (e) of this title, rounded to the nearest lower whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be 8 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 2012 of this title, rounded to the nearest whole dollar increment.

(b) Benefits not deemed income or resources for certain purposes

The value of benefits that may be provided under this chapter shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this chapter.

(c) First month benefits prorated

(1) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued, except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household

would otherwise be eligible to receive under this subsection is less than \$10. Households shall receive full months’ allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month.

(2) As used in this subsection, the term “initial month” means (A) the first month for which an allotment is issued to a household, (B) the first month for which an allotment is issued to a household following any period in which such household was not participating in the supplemental nutrition assistance program under this chapter after the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 2020(e)(10) of this title, and (C) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the supplemental nutrition assistance program after previous participation in such program.

(3) **OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.**—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 2020(e)(3) of this title in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 2020(e) of this title in the case of a household that is entitled to expedited service.

(d) Reduction of public assistance benefits**(1) In general**

If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

(B) the State agency may reduce the allotment of the household by not more than 25 percent.

(2) Rules and procedures

If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the supplemental nutrition assistance program.

(e) Allotments for households residing in centers**(1) In general**

In the case of an individual who resides in a center for the purpose of a drug or alcoholic