

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 9000

FINAL

ORDER

Adjusting Food Benefit EBT Accounts

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Adjusting Food Benefit EBT Accounts, specifically, to amend the Division of Social Services Manual (DSSM) regarding Adjusting Food Benefit EBT Accounts. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the December 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after March 11, 2025, Delaware Health and Social Services (DHSS) /Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM), Policy 9093.3 Adjusting Food Benefit EBT Accounts.

Statutory Authority

7 CFR 274.4(g)

Background

The Division of Social Services (DSS) is amending DSSM 9093.3 to include requirements for notifying households when adjustments are made to their Electronic Benefit Transfer (EBT) accounts for the Supplemental Nutrition Assistance Program (SNAP). DSS must notify households if a credit adjustment request to return food benefits is denied or a debit adjustment request to withdraw food benefits is approved. DSSM 9093.3 is also being amended to align with current federal regulations, clarify the text, and update the formatting.

Purpose

The purpose of this proposed regulation is to amend Policy 9093.3 Adjusting Food Benefit EBT Accounts.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on December 31, 2024.

Fiscal Impact Statement

There is no fiscal impact due to this policy is already in place.

Summary of Comments Received with Agency Response and Explanation of Changes

There were no public comments received.

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

The DSS Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the December 2024 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 9093.3 regarding Adjusting Food Benefit EBT Accounts, specifically, to clarify internal policy and procedures, is adopted and shall be final effective March 11, 2025.

2/13/2025 | 11:23 PM EST

Date of Signature

Josette D. Manning, Esquire
Cabinet Secretary, DHSS

9000 Food Stamp Program

9093.3 Adjusting Food Benefit EBT [Adjustments] Accounts

Statutory Authority

7 CFR 274.2 274.2(g)

Food Benefit Electronic Benefit Transfer (EBT) accounts may be adjusted due to errors during benefit posting or redemption. The Division of Social Services (DSS) and the EBT contractor will only make authorized adjustments [to food benefits] in accordance with this policy.

[DSS and Delaware's EBT contractor shall use the same EBT benefit type that corresponds with the error to adjust a household's food benefits. A different EBT benefit type from the error shall not be used to credit or debit the EBT account.]

1. DSS may adjust benefits posted to [household households'] EBT accounts before the benefit availability date to correct errors that occurred during the posting process.

2. The Delaware's EBT contractor makes adjustments to may adjust EBT accounts to correct system errors. A system error is an error resulting from a malfunction at any point in errors that occurred during the redemption process, for example, errors made at the grocery store. Adjustments are initiated may be requested by the client or store retailer and may result in a debit or credit to the household credit or debit to the household's EBT account.

DHSS will emphasize to clients that they should review their transaction slips before leaving the store. If there is a mistake, the client should discuss the problem with the store clerk or manager before leaving the store. Problems discovered later must be resolved through the EBT contractor Customer Service Unit.

A. Client-Initiated Credit Adjustments

- i. An EBT A credit adjustment occurs when the EBT contractor returns benefits to a household's EBT account after the store deducted the benefits in error a transaction error is reported by the client or another party. For example, a household member uses an EBT card to purchase groceries. Due to a system error, the store credit adjustment may be issued to a household when a retailer debited the purchase amount same transaction twice from the household's EBT account twice.
- ii. The household has Households have 90 days from the date of the problem transaction error to contact the EBT contractor Customer Service at 1-800-526-9099 and inform the customer service representative that a problem has occurred. The household will need to tell the customer service representative the date, time and location of the transaction and the amount of food benefits that were debited in error to report the error and request a credit adjustment. If the error is reported after 90 days, no action is taken by the EBT contractor or DSS.
- iii. If the request is a legitimate request, the The EBT contractor will return the funds to the household's EBT account within has 10 business days from the date the household filed the report with the reported the transaction error to EBT contractor Customer Service Unit. A business day is any calendar day other than a Saturday, a Sunday or a federal holiday. to:
 - a. Investigate and verify the transaction error;

- b. Make a determination on the adjustment request; and
- c. Credit the household's EBT account if the adjustment request is approved.
- iv. If the household's adjustment request is not legitimate, the EBT contractor will deny the credit adjustment denied, DSS will send an adjustment denial notice advising the household of the denial and their right to a fair hearing.
 - a. DSS will send the adjustment denial notice by the 10th business day from the date the error was reported.
 - b. The household may has 90 days from the date of the notice to request a fair hearing.
 - c. The household is not entitled to a provisional credit before the fair hearing.
 - d. The EBT contractor will take no action to credit the household's EBT account unless the only if the fair hearing decision is in the household's favor.

B. Retailer-Initiated Debit Adjustments

- i. A retailer-initiated debit adjustment occurs when the retailer does not receive a credit for an EBT purchase amount when the household made the purchase. The store needs the adjustment to get credit for the purchase made by the household the EBT contractor withdraws benefits from a household's EBT account after a transaction error is reported by a retailer or another party. For example, a household uses the EBT card to purchase \$200 worth of groceries. The credit to the store's account does not go through and the \$200 remains in the household's account debit adjustment may take place when a household makes a purchase, but the retailer's account is not credited correctly for the transaction.
- ii. If the retailer does not report the transaction error or the EBT contractor cannot verify the transaction error by the 10th business day from the date the error occurred, the adjustment request must be denied.
- iii. DHSS must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjusted amount in the household's account. The EBT contractor has 10 business days from the date the transaction error occurred to:
 - a. Investigate and verify the transaction error; and
 - b. Make a determination on the adjustment request by:
 - 1. Approving the request and placing a hold on the household's EBT account for the debit amount; or
 - 2. Denying the request.
- iv. The EBT contractor may place a hold on the household's current EBT account balance and the next month's benefits only.
 - a. If there are insufficient benefits in the household's EBT account to cover the entire adjustment, DHSS the EBT contractor will place a hold on any the remaining account balance that exists and the whole amount will be debited from the household's account when the next month's benefits become available.
 - b. If sufficient funds do not become available by the end of the next month, the adjustment request must be denied and the household's EBT account will not be debited.
- v. DHSS will send an adequate notice as defined in DSSM 9094 to the household informing it of the account adjustment. If the retailer's adjustment request is approved, DSS will send an adjustment notice advising the household of the [error] transaction [error], debit amount, adjustment hold process, and their right to a fair hearing.
 - a. DSS will send the adjustment notice by the next business day after the hold is placed on the household's EBT account.
 - b. The household has 90 days from the date of the notice to request a fair hearing.
 - c. If the household disputes the adjustment and requests a fair hearing within 10 days of the notice, DHSS will make a provisional credit to the household's account by releasing the EBT contractor will release the hold on the adjustment balance household's EBT account within 48 hours of the fair hearing request by the household, pending resolution of the fair hearing. The EBT account will not be debited pending a fair hearing decision.
 - d. If the household does not request for a fair hearing within 10 days of the notice, DHSS the EBT contractor will release the hold on the adjustment balance; debit the adjustment amount from the household's EBT account and credit this amount to the retailer's account the retailer. The EBT contractor will reverse the debit adjustment only if the fair hearing decision is in the household's favor.

15 DE Reg. 1030 (01/01/12)
28 DE Reg. 669 (03/01/25) (Final)