

IC 12-13-14

Chapter 14. Electronic Benefits Transfer

IC 12-13-14-1

Definitions

Sec. 1. (a) As used in this chapter, "automated teller machine" means an electronic hardware device owned or operated by or on behalf of a financial institution or retailer that is capable of dispensing currency and responding to balance inquiries through the use of a magnetic stripe card issued by or on behalf of the division for distribution of assistance through an EBT system as described in this chapter.

(b) As used in this chapter, "commission" refers to the electronic benefits transfer commission established by this chapter.

(c) As used in this chapter, "Department" refers to the United States Department of Health and Human Services.

(d) As used in this chapter, "EBT program" means an electronic benefits transfer program.

(e) As used in this chapter, "financial institution" means a bank, trust company, savings institution, credit union, or any other organization:

(1) whose principal business activity is providing banking or financial services to the public; and

(2) that is organized, supervised, and authorized to do business in Indiana under IC 28 or Title 12 of the United States Code.

(f) As used in this chapter, "food retailer" means a retailer that:

(1) sells food items to consumers; and

(2) has been authorized under 7 CFR 278 to participate in the food stamp program.

(g) As used in this chapter, "person" includes any individual or entity described in IC 6-2.5-1-3.

(h) As used in this chapter, "point of sale terminal" means an electronic hardware device that is:

(1) used at a retailer's place of business where consumers pay for goods or services; and

(2) capable of:

(A) initiating a request for authorization of a purchase of tangible personal property;

(B) disbursing currency from an account;

(C) initiating a balance inquiry for an account; or

(D) distributing assistance through an EBT system as described in this chapter.

(i) As used in this chapter, "primary business" means more than fifty percent (50%) of the gross retail income (as defined in IC 6-2.5-1-5) attributable to the location or premises where the business is located.

(j) As used in this chapter, "retailer" means a person that, in the ordinary course of business:

(1) sells or transfers tangible personal property; or

(2) provides or performs services for compensation

to consumers.

(k) As used in this chapter, "Secretary" refers to the Secretary of the United States Department of Agriculture.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.10.

IC 12-13-14-2

Power of division to implement EBT program for food stamp assistance; contract with vendors; rules

Sec. 2. The division may do the following:

(1) Under:

(A) 7 U.S.C. 2016(I); and

(B) 7 CFR 272, 274, 276, 277, and 278;

make an application for approval from the Secretary for implementation by the division of an EBT program in Indiana for food stamp assistance.

(2) If required at any time by federal law or regulation, make an application for approval from the Department for implementation by the division of an EBT program in Indiana for assistance under the Title IV-A assistance program as provided in 42 U.S.C. 601 et seq.

(3) After receiving approval from the Secretary and, if required, the Department, implement a fully functional and operating EBT program under this chapter to provide an alternative method of delivering:

(A) food stamp assistance; and

(B) assistance under the Title IV-A assistance program in Indiana.

(4) Contract with vendors for supplies and services to implement an EBT program according to IC 5-22-17.

(5) Adopt rules under IC 4-22-2 to implement the EBT program.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.11; P.L.49-1997, SEC.44; P.L.2-1998, SEC.37.

IC 12-13-14-3

Electronic benefits transfer commission; members; terms; vacancies; chairperson; no reimbursement for expenses

Sec. 3. (a) The electronic benefits transfer commission is established.

(b) The commission consists of eight (8) members appointed by the secretary of family and social services as follows:

(1) Two (2) employees of the office of the secretary of family and social services.

(2) Two (2) members of the Indiana Grocers and Convenience Store Association, nominated by the chief executive officer of the Indiana Grocers and Convenience Store Association for consideration by the secretary of family and social services.

(3) Two (2) members of the Indiana Bankers Association, nominated by the chief executive officer of the Indiana Bankers Association for consideration by the office of the secretary of

family and social services.

(4) Two (2) persons representing recipients of food stamp benefits or Aid to Families with Dependent Children (AFDC) benefits. One (1) person shall be nominated by the Indiana Food and Nutrition Network, and one (1) person shall be nominated by the Indiana Coalition for Human Services for consideration by the secretary of family and social services.

(c) The terms of office shall be for three (3) years. The members serve at the will of the secretary of family and social services. A vacancy on the commission shall be filled by the secretary of family and social services in the same manner the original appointment was made.

(d) The secretary of family and social services shall appoint the initial chairperson from among the members of the commission. The commission shall meet on the call of the chairperson. When the chairperson's term expires, the commission shall elect a new chairperson from among the membership of the commission.

(e) The division shall provide staff needed for the commission to operate under this chapter.

(f) The commission members are not eligible for per diem reimbursement or reimbursement for expenses incurred for travel to and from commission meetings.

As added by P.L.15-1996, SEC.2. Amended by P.L.1-2009, SEC.101.

IC 12-13-14-4

Recommendations of commission to division on implementation of statewide EBT program

Sec. 4. The commission shall make recommendations to the division and advise the division on the following issues:

(1) Implementing a fully functional and operating EBT program statewide.

(2) How Indiana's EBT program implemented under this chapter can be administered in accordance with:

(A) federal requirements under 7 U.S.C. 2016(i); and

(B) federal regulations under 7 CFR 272, 274, 276, 277, and 278.

(3) Whether to implement the National Automated Clearing House Association guidelines to the extent that the guidelines are not inconsistent with federal law.

(4) Whether to implement the federal electronic funds transfer rules.

(5) Whether the division should seek a waiver from the Secretary that would allow retailers to identify check-out lanes that are equipped to handle EBT transactions.

(6) Providing retailer and recipient training.

(7) Creating an EBT program in Indiana that is compatible with EBT programs in other states to the extent possible.

(8) Rules necessary to provide adequate financial safeguards and other protections for recipients.

(9) Any other issues concerning the establishment and operation

of an EBT program.
*As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss),
SEC.12.*

IC 12-13-14-4.5

Distribution of cash assistance through automated teller machines or point of sale terminals; exclusions; disabled access in prohibited locations; penalties; rules

Sec. 4.5. (a) Except as provided in this section, the division may distribute cash assistance benefits to a person who is eligible for assistance under the Title IV-A assistance program through an automated teller machine or a point of sale terminal that is connected to the EBT system.

(b) The following establishments shall post a sign next to each automated teller machine or point of sale terminal located on the premises informing a potential user that the automated teller machine or point of sale terminal may not be used to receive cash assistance benefits under the Title IV-A assistance program:

- (1) A horse racing establishment:
 - (A) where the pari-mutuel system of wagering is authorized; and
 - (B) for which a permit is required under IC 4-31-5.
- (2) A satellite facility:
 - (A) where wagering on horse racing is conducted; and
 - (B) for which a license is required under IC 4-31-5.5.
- (3) An allowable event required to be licensed by the Indiana gaming commission under IC 4-32.2.
- (4) A riverboat or other facility required to be licensed by the Indiana gaming commission under IC 4-33.
- (5) A store or other establishment:
 - (A) where the primary business is the sale of firearms (as defined in IC 35-47-1-5); and
 - (B) that sells handguns for which a license to sell handguns is required under IC 35-47-2.
- (6) A store or other establishment where the primary business is the sale of alcoholic beverages for which a permit is required under IC 7.1-3.
- (7) An adult entertainment establishment.

(c) An:

- (1) establishment that does not post the sign required under subsection (b); or
- (2) individual who attempts to use an automated teller machine or point of sale terminal with a sign posted as required under subsection (b) to access cash assistance benefits under the Title IV-A assistance program in violation of subsection (b);

commits a Class C misdemeanor.

(d) The owner, vendor, or third party processor of an automated teller machine or point of sale terminal shall disable or have disabled access to electronic cash assistance benefits in a location described in subsection (b) unless the location has been approved by the federal

Food and Nutrition Services. The division shall provide assistance to an owner, vendor, or third party processor under this subsection. A person that violates this subsection commits a Class B infraction.

(e) The division shall adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.257-1997(ss), SEC.13. Amended by P.L.91-2006, SEC.10; P.L.3-2012, SEC.2; P.L.197-2013, SEC.6.

IC 12-13-14-5

Retailer participation

Sec. 5. A retailer participating in the EBT program in Indiana is not required to make cash disbursements or purchase equipment.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-6

Equal treatment of retailers

Sec. 6. Retailers within a defined market area shall be treated equally.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-7

Retailer liability for fraudulent EBT transaction

Sec. 7. A retailer participating in the EBT program may not be held liable for a loss incurred due to a fraudulent EBT transaction provided the retailer did not participate in the fraud.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-8

Payment to retailer by contractor; penalty payments; system failure

Sec. 8. (a) An approved transaction must be paid to the retailer not later than the end of the second business day in which a financial institution is open for business to the public following the approval of the transaction.

(b) Failure by the contractor to pay the retailer in accordance with subsection (a) will result in penalty payments being paid by the contractor to the retailer.

(c) If there is a system failure, off-line transactions will be authorized and guaranteed up to an amount to be determined by the division. The retailer must comply with the division's rules for off-line transactions.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-9

Retailer and recipient training; credit

Sec. 9. The division shall provide retailer and recipient training statewide. A retailer who uses its own equipment for training shall receive a training credit to offset the retailer's cost.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-10**Retailer not considered contractor**

Sec. 10. A retailer participating in the EBT program in Indiana may not be considered as a contractor for supplying services or supplies in connection with Indiana's EBT program.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-11**Required components of EBT program**

Sec. 11. The Indiana EBT program must be designed:

- (1) for recipient portability; and
- (2) to ensure compatibility with other states;

to the extent possible.

As added by P.L.15-1996, SEC.2.

IC 12-13-14-12**Retailer fees for processing transactions; review of fees**

Sec. 12. The division shall negotiate a fee structure with the Indiana Grocers and Convenience Store Association for retailers in exchange for processing the division's EBT transactions. Retailer agreements entered into between the state and retailers shall consider appropriate fees that are consistent with existing market practices, and consider costs incurred by the participating retailers for capital expenditures and ongoing operating expenditures. The division shall review and adjust the fee if necessary or appropriate.

As added by P.L.15-1996, SEC.2. Amended by P.L.257-1997(ss), SEC.14.

IC 12-13-14-13**Farmer's market point of sale terminals**

Sec. 13. The division shall implement a program that provides a farmers' market administrator or a retailer who sells food at a farmers' market with a wired or wireless point of sale terminal that is connected to the EBT system.

As added by P.L.96-2009, SEC.1. Amended by P.L.13-2013, SEC.45.

IC 12-13-14-14**Investigation of fraud by state excise police**

Sec. 14. The state excise police may investigate allegations of fraud within the EBT program, including investigations of the following persons:

- (1) Applicants.
- (2) Recipients.
- (3) Retailers that participate in the EBT program.
- (4) Individuals who sell or purchase access to cash assistance benefits in violation of any federal or state law or regulation.

As added by P.L.197-2013, SEC.7.

IC 12-13-14-15**Replacement of EBT cards; procedure**

Sec. 15. (a) As used in this section, "EBT card" has the meaning set forth in 470 IAC 6-0.5-1.

(b) The replacement process established under this section applies until federal rules are adopted establishing a replacement EBT card process that supersedes or nullifies the process established by the division.

(c) The division shall establish a process for a recipient to follow in order to receive a replacement EBT card. The process must include contact with the division for replacement if the individual requesting replacement of the EBT card has previously requested a replacement EBT card at least four (4) times in the preceding twelve (12) month period.

(d) The division may hold replacement of an EBT card if the recipient seeking replacement of the EBT card does not follow the procedure established by the division under subsection (b).

As added by P.L.197-2013, SEC.8.