

# Minnesota EBT Business Task Force

April 3, 2012

## **Introduction**

The Minnesota Legislature established the Minnesota Electronic Benefit Transfer (EBT) Business Task Force in 2011. The Legislative language in 2011 Session Laws, Chapter 25, Article 1, Section 36, directs the Task Force to review programs under Minnesota Statute chapter 256D and chapter 256J to eliminate the purchase of tobacco and alcoholic beverages by the recipients of those programs. The Task Force was to meet and report back to the legislative committees with jurisdiction over health and human services policy and finance by April 1, 2012.

## **Membership**

The Minnesota EBT Business Task Force included seven members, appointed as follows:

- (1) two members of the Minnesota house of representatives appointed by the speaker of the house;
- (2) two members of the Minnesota senate appointed by the senate majority leader;
- (3) the commissioner of human services or designee;
- (4) an appointee of the Minnesota Grocers Association;
- (5) a credit card processor, appointed by the commissioner of human services.

## **Background**

The EBT program is administered by the Department of Human Services. An EBT card is the primary mechanism in Minnesota for issuing Food Support and temporary cash assistance. The cash portion on an EBT card is provided to help families meet their basic needs. These basic needs include food, shelter, clothing, utilities and transportation. EBT is a system that automates the delivery, redemption and reconciliation of these public assistance benefits.

Since the EBT card is the primary source for administering food support (SNAP) and cash assistance, at the first Task Force meeting, it was determined by the membership of the Task Force that the group would only focus on the cash assistance (EBT) portion of the EBT program, and not the Supplemental Nutrition Assistance Program (SNAP). The SNAP program eligibility and eligible uses is determined by the federal government.

## **EBT Use Statistics**

Recipients of public assistance in Minnesota receive different combinations of benefits, depending on their circumstances and program eligibility rules. On average, more than 190,600 cases per month in fiscal year 2010 received benefits through EBT. Of those:

- 122,200 households with an income at or below 165 percent of the federal poverty guidelines received Food Support only.
- 53,200 households received both cash and food assistance.
- 15,200 households received cash assistance only through programs such as the Diversionary Work Program, General Assistance, the Minnesota Family Investment Program, Minnesota Supplemental Aid, Refugee Cash Assistance and the Work Benefit Program.

Approximately \$575.1 million in Food Support was distributed in FY 2010, involving more than 20 million transactions. Of those:

- 97 percent occurred in Minnesota.
- About 1.5 percent occurred in border states.
- About 1.5 percent occurred in another state or territory.
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Of more than 3.8 million cash transactions, involving approximately \$207.2 million:

- 98 percent occurred in Minnesota.
- About 1 percent occurred in another state or territory.
- Less than 1 percent occurred in border states.

## 2011 Legislative Changes

During the 2011 Legislative Session, several bills were brought forward in efforts to prevent the fraudulent and/or inappropriate use of cash benefits. The result was legislation requiring the head of household name to appear on the EBT card, the card must include a statement letting recipients know it is illegal to purchase tobacco or alcohol products. With the 2011 changes, the statute regarding EBT card use now reads:

### **256.987 ELECTRONIC BENEFIT TRANSFER CARD.**

**Subdivision 1. Electronic benefit transfer (EBT) card.** Cash benefits for the general assistance and Minnesota supplemental aid programs under chapter 256D and programs under chapter 256J must be issued on a separate EBT card with the name of the head of household printed on the card. The card must include the following statement: "It is unlawful to use this card to purchase tobacco products or alcoholic beverages." This card must be issued within 30 calendar days of an eligibility determination. During the initial 30 calendar days of eligibility, a recipient may have cash benefits issued on an EBT card without a name printed on the card. This card may be the same card on which food support benefits are issued and does not need to meet the requirements of this section.

*Effective June 1, 2012*

**Subd. 2. Prohibited purchases.** EBT debit cardholders in programs listed under subdivision 1 are prohibited from using the EBT debit card to purchase tobacco products and alcoholic

beverages, as defined in section 340A.101, subdivision 2. It is unlawful for an EBT cardholder to purchase or attempt to purchase tobacco products or alcoholic beverages with the cardholder's EBT card. Any unlawful use under this subdivision shall constitute fraud and result in disqualification from the program under section 256.98, subdivision 8.

### Task Force Work

In discussing the next steps, the Task Force wanted to understand the current usage of EBT benefits in establishments with Liquor, Bar or Tobacco in the Merchant Name.

The following chart includes information from calendar years 2010 and 2011, on the number of transactions and dollars withdrawn at ATMs in establishments with "liquor," "bar" or "tobacco" in the merchant's name.

<u>Store Type</u>	<u># Transactions</u>	<u>Dollars</u>
Liquor	6,748	\$338,415
Bar	4,166	\$192,055
Tobacco	1,910	\$102,047
Totals:	12,824 (0.6%)	\$632,517 (3.5%)

**All ATM locations** 2,041,209 \$176,732,488  
 \*calendar Year 2010

<u>Store Type</u>	<u># Transactions</u>	<u>Dollars</u>
Liquor	3,311	\$178,090
Bar	3,588	\$187,739
Tobacco	2,552	\$138,345
Totals:	9,451 (0.5%)	\$379,664 (2.1%)

**All ATM locations** 2,109,666 \$184,152,744  
 \*calendar year 2011.

#### Notes:

- These cash withdrawals come from ALL cash programs.
- The store type means the word was included in the merchant name.
- This data does not suggest the cash was used at the retailer.

### Conclusions/Issues

#### Charge to develop a workable strategy

The process in place to eliminate use of EBT cards to purchase alcohol or tobacco is in place and working. Withdrawals in these locations represent a very small percentage (.006%) of all withdrawals at ATM machines in both 2010 and 2011. However, authority to enforce restrictions through the retailer side of transactions is much stronger in legislation addressing use in gambling establishments (256.981, subd. 2 and Section 33). Statute gives the

Commissioner authority to “take all actions necessary” to ensure cash benefits are not withdrawn in a casino or other gambling establishment.

Statute restricting use of EBT cards to purchase alcohol or tobacco (256.987, section 10, subd. 2) is targeted to cardholders. It does not give the Commissioner authority to take all actions necessary to enforce the restriction through the retailer side of transactions. Without this authority, the Department receives push back from third-party processors when asked to terminate EBT card usage at certain retailers.

Even with authority to take action, statute does not provide a penalty to a retailer or gambling establishment that does not cooperate. To date, this has not been an issue.

#### Cardholder Name on Receipts

The Task Force raised the issue of not having the cardholder name printed on receipts for purchases made with the cash benefit on an EBT card, and whether privacy issues need to be addressed.

Feasibility of execution at retail was an issue regarding this matter, while it is possible to print the cardholder’s name on receipts; this is not an electronic payment card standard. A specification change is required and all processors would need to comply.

### **Recommendations**

The Task Force decided to look at establishments with ATM machines where the cash portion of EBT benefits can be used. The question the Task Force asked was: “What is the difference between the 1997 statutory directive concerning gambling establishments and our 2011 Alcohol/Tobacco language?”

#### Existing language:

MS 256.9831 subd. 2 – The commissioner shall take all actions necessary to ensure that no person may obtain benefits under chapter 256 or 256D through the use of a financial card, as defined in section 609.821, subdivision 1, paragraph (a), at a terminal located in or attached to a gambling establishment.

The language authorizes the Department of Human Service, through the authority of the commissioner, to take all actions necessary with the gambling establishment to ensure an EBT card cannot be used at a POS terminal or ATM located in or attached to the premises of the gambling establishment. Whereas, 256.987 Section 10, subd. 2 and Section 33 make it unlawful for the cardholder to use or attempt to use the EBT card for the purchase of tobacco or alcoholic products and requires the retailer to negotiate with their third-party processor to block EBT card cash transactions.

Proposed language:

We proposed the following: MS 256.9831 subd. 2 – The commissioner shall take all actions necessary to ensure that no person may obtain benefits under chapter 256 or 256D through the use of a financial card, as defined in section 609.821, subdivision 1, paragraph (a), at a terminal located in or attached to a gambling establishment, liquor store, tobacco store or tattoo parlor.

The proposed change in law is currently in HF2294, Article 3, Section 6. House File 2294 is still moving through the legislative process.

**Conclusion**

In conclusion, the Legislative members have proposed legislation to address concerns raised, and if the legislation is successful, the Task Force will evaluate the results. DHS data tracking has been broadened and has been consistent over time, and is thus a reliable method of evaluation. Since compliance to this legislation would be voluntary, if measurable improvement is made it would give the Legislature the necessary support to then address the next phase of reforming EBT card use in bars. This phasing approach was preferred due to the advantages of having the lowest cost with maximum benefit, since a more thorough reform all at once would be more expensive without being as effective.