



Recommended Standards for TANF Payment Card Contracts

April 2014

Most states deliver the vast majority of cash assistance payments under the Temporary Assistance for Needy Families (TANF) block grant through electronic benefit transfer (EBT) or electronic payment card (EPC) systems.¹ In some cases, other benefits or payments, such as child support collected by the state, are paid on the same cards. States contract with private vendors that operate these systems. Most of these contracts are held by a select few large financial services companies.²

States may negotiate the terms of their contracts with vendors either individually or in consortia. These contracts are not generally made public and states have limited capacity to research other states' choices. However, it is clear that these contracts vary widely in both the fee structures and the protections provided to users. In this memo, we offer recommendations to states on best practices in the areas of fees and surcharges, clear information for recipients, protections against theft and fraud, and public accountability.

In the past, some of us have advocated for using TANF payment cards as an entry point for low-cost financial services for those who do not have bank accounts, such as by allowing recipients to have earnings or other payments deposited onto the cards. However, in the wake of recent federal and state laws restricting the use of TANF payment cards to specified locations, that approach is no longer viable, as it would be burdensome to distinguish between TANF funds and clients' own unrestricted funds on a single card.³ We have not included recommendations

¹ Electronic Benefit Transfer (EBT) cards are benefit cards that enable recipients to access ATMs, grocery stores, and a limited number of other merchants who accept cards on the applicable network (i.e., Quest). Electronic Payment Cards (EPC), also known as prepaid cards, carry a network brand that is more widely accepted (Visa or MasterCard) and are identical to bank debit cards but are not tied to an individual bank account. EBT cards are used primarily to distribute benefits under the Supplemental Nutrition Assistance Program (SNAP) and TANF, while EPCs are used for a range of cash-based state and federal payments including Unemployment Insurance, child support, TANF, Social Security and Supplemental Security Income (SSI) for the elderly and individuals with disabilities.

² One of them, JP Morgan Chase, recently announced its intention to withdraw from this line of business. We are not aware of a comprehensive list of vendors for TANF cards; the Food and Nutrition Service posts a list of the vendors for SNAP EBT cards at <http://www.fns.usda.gov/sites/default/files/snap/electronic-benefits-transfer-ebt-status-report-state.pdf>

³ Indeed, these restrictions may pose challenges to states that currently use the same cards to pay TANF and other unrestricted funds, such as child support payments collected by the state on behalf of custodial parents.

regarding how to implement these new restrictions, as the full costs and tradeoffs of different approaches are not yet clear.

Reasonable fees and surcharges

Section 4004(c) of the Middle Class Tax Relief and Job Creation Act of 2012 requires states to ensure that TANF recipients “have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges.” This is a reflection of the deep poverty experienced by most families receiving TANF assistance and the impact that even modest fees can have on their total budgets. We believe this language should be understood as applying to both “fees” charged to the recipient by the operator of the state’s EBT or EPC services and “charges” or “surcharges” imposed by the owners of ATMs. State contracts should address both types of costs.

- **Fee-free withdrawals:** States’ EBT and EPC contracts should guarantee recipients a minimum of two transaction fee-free ATM withdrawals per month—and preferably more. This standard would be consistent with biweekly paychecks and make sure TANF households don’t lose a portion of their already-small benefits to fees. Currently, some states impose transaction fees for every ATM withdrawal. Clients who live in high-crime areas may be particularly vulnerable if they are forced to withdraw all of their benefits at once in order to avoid fees.ⁱ
- **No fees to check balances or transaction history or get ad hoc statement copies:** Recipients should not have to pay to check their EBT or EPC balances or view their transaction history, whether through ATMs, automated telephone systems, or text messages. Moreover, recipients should not have to pay for occasional written copies of their transaction histories. This is particularly important since consumers are being encouraged to monitor their accounts for unauthorized transactions in the wake of recent data breaches.
- **No fees for customer service calls:** Recipients should be able to access the help they need, resolve problems, and ask questions without losing scarce funds they need for necessities.
- **Standards to ensure access to surcharge-free ATMs:** States should implement and enforce standards to guarantee that all TANF households have adequate access to surcharge-free ATMs. Usually, this can be achieved by establishing an “in-network” ATM provider owned or sub-contracted by the EBT or EPC administrator. However, particularly in rural areas, there may be clients who do not have meaningful access to in-network ATMs.ⁱⁱ When there is not meaningful access to in-network ATMs, or when clients do not understand how to find them, out-of-network ATM fees can impose a

significant burden on many TANF households; for example, a recent report by the California Reinvestment Coalition found that California recipients pay approximately \$19 million a year on EBT fees and surcharges.ⁱⁱⁱ A set of standards to ensure better access could be based on a number of different criteria, such as the number or percentage of surcharge-free ATMs in a given zip code or census tract. (ATMs at restricted locations, such as casinos or liquor stores, should not be counted as available to recipients.) In cases where TANF recipients do not have access to the contracted in-network ATM provider, and therefore are charged a fee for using out-of-network ATMs, the EBT or EPC administrator should provide reimbursements for fees incurred for at least two withdrawals.

- Note that free cash-back through point-of-sale transactions is not an adequate substitute for access to surcharge-free ATMs. Consumers should not be required to make a purchase to access their assistance without charge. Moreover, many retailers limit the amount of funds that may be accessed through cash-back transactions.
- **Ability to select and easily set up direct deposit for TANF benefits:** Participants should be allowed to have their TANF assistance directly deposited into a bank account or personally selected pre-paid card. Direct deposit to a consumer's own bank account often confers significant advantages, including access to a wider ATM network, the ability to pay bills and make purchases online, and a mechanism for saving and participating in the financial mainstream once the household has transitioned off of TANF. Many states already offer direct deposit, but some permit only EBT cards or paper checks. States should both offer direct deposit at initial application and establish a simple, fast, and reliable process for opting in to direct deposit for clients who have already been receiving their assistance through other methods.

States should also consider collaborating with banks and credit unions to give TANF households access to free or low-cost bank accounts that deny debit card transactions that would overdraft the account, rather than allow the overdraft and charge a fee. They should also provide recipients with frequent (such as biannual or annual) information about such accounts.

Clear information for recipients

- **Information about fees and surcharges:** Clients should receive clear, easy-to-understand information about the potential costs of accessing their assistance, including a wallet-sized card and one-page chart that list all fees. This information should be provided upon enrollment and again when their EBT or EPC card is issued. It should also be easily accessible on the state's website—written in simple language and translated

as appropriate. EBT or EPC card users should receive a warning from an ATM of any surcharges to be incurred, a protection bank card users already enjoy.

- **Information about how to access cash without fees.** States should provide clear, simple information on the various methods clients can use to access their benefits without charges, including surcharge-free ATMs, cash-back from a purchase, and (if available) at the teller window of participating banks. To leverage the capacity of contracting financial institutions to develop tools and policies that would support the objective of minimizing the funds lost to surcharges, EBT contracts could include incentive payments for keeping surcharges below a certain level. For example, California has been experimenting with targeted outreach to clients who are incurring above-average levels of fees and surcharges.
- **Information about how to find surcharge-free ATMs:** Clients should have access to information about how to locate surcharge-free ATMs through multiple channels. This information should be: provided upon benefit award; posted online; accessible through mobile applications; and available through text-back services or by inquiring at a toll-free phone line. Recipients should be able to find all surcharge-free ATMs through a single search or request, even if those ATMs are on multiple networks. Providing a range of methods for obtaining this information will increase convenience for TANF consumers and promote greater access among households with limited or no internet.
- **Monthly transaction data:** Clients should have access to monthly transaction data by mail and online, with key information (such as fees paid) prominently featured. This practice will facilitate household budgeting and enable clients to monitor their accounts for unauthorized activity.
- **Standards for help calls and website:** States should establish minimum standards for the accessibility of their website and customer service lines, including standards for the share of the time that websites or call lines are available, the share of customer service calls that are dropped, and the average wait time when calling. Contracts should include financial penalties for failure to meet these standards. Clients should also have the option to receive a call back rather than waiting on hold (so as not to use up minutes on limited-minute calling plans).
- **Notice of system outages:** Both clients and retailers should receive prompt notice if the EBT or EPC system is unavailable or expected to be unavailable for one hour or longer. Contracts should include penalties for outages that deny clients access to funds.

- **Garnishment:** Clients receiving assistance via direct deposit to their bank accounts should receive information about the protection of their benefits from garnishment under applicable state law and what steps to take if their assistance is wrongly garnished.

Protections against theft and fraud

- **Protections against liability for losses:** Clients should be protected against loss due to the theft of their EBT or EPC card or card data. EPC cards should comply with the Regulation E rules for payroll cards (and, eventually, prepaid cards). This protection should not be dependent on client reporting when there is not an obvious way for clients to know their information has been stolen.
- **Fast replacement of cards:** The state should replace EBT and EPC cards that are reported stolen or that are canceled due to data theft within two business days, which is the current federal standard for the Supplemental Nutrition Assistance Program.^{iv} Providing fast replacement of these cards is essential for ensuring that TANF households do not have to endure a significant delay before being able to access their basic assistance, which may be their only income. States should provide at least one free replacement card per year and impose minimal fees for replacements thereafter. Bank-issued replacement cards as the result of systematic issues beyond client control (such as the Target data breach) should not be counted against clients' limit.

Public accountability

- **Post schedule of fees clearly on website:** States should make their fee schedules publicly available online. We further recommend that the Consumer Financial Protection Bureau or the Administration for Children and Families make all states' fee schedules available on a single public website. This practice will both promote transparency regarding the use of public funds and potentially strengthen states' negotiating position with respect to EBT and EPC vendors. When the National Consumer Law Center published a report containing detailed information about the costs imposed on users of prepaid cards for unemployment compensation, several states with above-average fees were able to renegotiate their contracts to reduce the fees to be more in line with other states.^v
- **Collect, monitor, and publicize fee data:** States should regularly collect and make publically available information on the total amount of funds that their EBT vendor receives as fees (broken down by type of fee) and the amounts that clients pay as surcharges.

About the Authors

The Center for Law and Social Policy (CLASP) seeks to improve the lives of low-income people by developing and advocating for federal, state and local policies to strengthen families and create pathways to education and work. CLASP has a deep expertise in federal and state Temporary Assistance for Needy Families (TANF) and other income support programs. For more information, visit www.clasp.org and follow @CLASP_DC.

The California Reinvestment Coalition advocates for affordable access to the financial services that low income families and families of color depend on to build strong communities. Our membership includes 300 non-profit organizations that serve low income communities and communities of color across our state. We are currently working with the California Department of Social Services, county welfare administrators, financial institutions, and non-profit organizations to reduce the fees that TANF recipients pay to use EBT cards, totaling about \$19 million a year. Visit CRC's blog at calreinvest.wordpress.com or visit our webpage at calreinvest.org.

The Asset Building Program at the New America Foundation incubates promising policy proposals and serves as a leading voice on innovative public policies to enable low- and middle-income families in the U.S. to accumulate savings, access wealth-building financial services, develop financial capability, and build and protect productive assets across the life course. Recently, we have undertaken research regarding the different methods of TANF disbursement utilized by states and the implications of these policy choices for TANF households. Learn more at assets.newamerica.org.

ⁱ Recent studies have suggested that the increased use of EBT cards to pay benefits is associated with an overall drop in crime rates.

ⁱⁱ See, for example, David Rothstein, Testimony to the Senate Committee on Banking, Housing, Urban Affairs Subcommittee on Financial Institutions and Consumer Protection Examining Issues in the Prepaid Card Market, March 2012. <http://www.policymattersohio.org/rothstein-testimony-march2012>

ⁱⁱⁱ California Reinvestment Coalition, *The \$19 Million ATM Fee: How Better Banking Services Would Protect Our Public Investment in Families*, March 2014. <http://calreinvest.org/news/new-report-california-spends-19-million-in-public-assistance-on-atm-fees-annually>

^{iv} CFR 274.12(g)(5)(ii).

^v Lauren K. Saunders and Jillian McLaughlin, *2013 Survey of Unemployment Prepaid Cards: States Save Workers Millions in Fees; Thumbs Down on Restricting Choice*. National Consumer Law Center, January 2013. <https://www.nclc.org/images/pdf/pr-reports/report-prepaid-card-2013.pdf>