

July 27th, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Dear Director Chopra:

As organizations dedicated to advancing economic prosperity for individuals and families with low incomes, combating hunger, promoting racial justice, and ensuring consumer protection, we write to urge you to include Electronic Benefit Transfer (EBT) accounts, used to distribute public benefit program assistance to recipients, in the Consumer Financial Protection Bureau (CFPB) rulemaking implementing Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. This will ensure equity and protection for all consumers.

During remarks you recently made while testifying before the House Financial Services Committee, you emphasized your commitment that EBT accounts and users should have consumer protections. You also remarked that consumers with low incomes would benefit from the data access rights and the consumer protections that the forthcoming rule would provide. We agree with your assessment, and we are disappointed at the prospect that consumers who use EBT accounts would need to wait for a separate, future rulemaking process to receive these equal rights and protections. Consumers with low incomes need these protections now, and delaying implementation will only lead to prolonged financial strain and inequity.

Excluding EBT accounts from the personal financial data rights and associated consumer protections, or delaying the population's coverage to a future rulemaking, would reinforce a two-tier financial services system. This two-tier system results in fewer rights and consumer protections for Americans who have low incomes and who may have less access to traditional banking services when compared with consumers who have higher incomes. This is inequitable and will exacerbate hardship for people living in poverty.

Currently, more than 41 million people across the country receive Supplemental Nutrition Assistance Program ("SNAP") benefits¹ and nearly 2 million receive Temporary Assistance for Needy Families ("TANF") benefits to support their families.² These public benefit programs reach people with low incomes of different races. In SNAP, prior to the pandemic, about 38 percent of recipients were white, 25.5 percent were Black, and 15 percent were Latinx.³ In

¹ United States Department of Agriculture, "Supplemental Nutrition Assistance Program Participation and Costs," <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPsummary-6.pdf>.

² Office of Family Administration, Administration for Children and Families, "TANF Caseload Data 2022," August 2022, <https://www.acf.hhs.gov/ofa/data/tanf-caseload-data-2022>.

³ United States Department of Agriculture, Food and Nutrition Service, Office of Policy Support, "Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2020," by Kathryn Cronquist and Brett Eiffes,

TANF, 35 percent of recipients were Latinx, 29 percent of recipients were Black, and 27 percent of recipients were white in FY 2021.⁴ These critical benefits help families with low incomes afford essentials like groceries, diapers, and rent. The benefits are typically administered and distributed to families through EBT accounts. States contract with private companies, often referred to as “EBT processors,” to administer the EBT accounts.

Under current law, these processors are not required to provide SNAP and TANF recipients with consistent and reliable access to their financial data electronically – such as viewing their EBT transaction history. Families that receive public benefits through the EBT system often experience data unavailability, slow connection, and restrictions when they attempt to confirm their account balance. If SNAP and TANF recipients had access to this data, it would allow them to plan their monthly budgets and finances more easily, and it would help them potentially discover fraud (such as instances commonly referred to as “EBT skimming”) as it is happening. EBT users deserve access to their data and information efficiently, rather than with barriers and delays.

Third party providers have entered the financial market to provide EBT users with access to their account balances and to view their transaction histories in more accessible and reliable ways. These tools allow SNAP recipients to use an easy-to-use application to view their EBT account information more efficiently – rather than needing to purchase a low-cost food item to confirm their remaining EBT balance, call a 1-800 number, or access a website or application through the EBT processor.⁵ Third parties need access to key financial information to provide their customers with the most updated and reliable services possible. We expect that including EBT in the rulemaking would increase competition in this important marketplace, expanding the number and quality of services available to consumers with low incomes who are seeking to simplify the management of their complex financial lives.

We applaud the CFPB’s initiative to create a legally binding data rights protection for consumers to access their financial data held by their financial institutions, including accounts that are covered under Regulation E and Regulation Z.

We strongly urge the CFPB to utilize the authority bestowed onto it under the text of the Dodd-Frank Act, which clearly includes EBT processors as “covered persons” and EBT accounts as “consumer financial products or services,”⁶ to similarly provide data access rights and consumer protections for consumers with low incomes who use EBT accounts. The CFPB should include

Report No. SNAP-21-CHAR, June 2022, <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics>.

⁴ U.S. Department of Health and Human Services, Office of Family Assistance, “Characteristics and Financial Circumstances of TANF Recipients, Fiscal Year 2021,” updated February 2023, <https://www.acf.hhs.gov/ofa/data/characteristics-and-financial-circumstances-tanf-recipients-fiscal-year-2021>.

⁵ David Elliot, “Why New Consumer Protection Agency Rule Must Include EBT Account Holders,” Coalition on Human Needs, January 19 2023, <https://www.chn.org/voices/why-new-consumer-protection-agency-rule-must-include-ebt-account-holders/>.

⁶ Public Law 111-203, “Dodd-Frank Wall Street Reform and Consumer Protection Act,” July 21, 2010, <https://www.govinfo.gov/content/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

EBT accounts within the scope of covered accounts in its proposed rulemaking that implements Section 1033 of the Dodd-Frank Act this year.

People who use EBT accounts and who receive public benefit programs like SNAP and TANF deserve the same consumer protections as other Americans. Consumers who receive public benefits should not be forced to wait for future rulemaking to receive the same legal protections that other consumers have. We urge you to act now to ensure equity in consumer protections for all individuals, regardless of income and regardless of whether they use EBT accounts.

Thank you for your continued commitment to ensuring transparency and accountability for consumers, and for working towards a stronger, fairer, more equitable, and more competitive financial marketplace.

Sincerely,

Beek Center for Social Impact + Innovation at Georgetown University
Center for Law and Social Policy (CLASP)
Change Machine
Code for America
Feeding America
Financial Empowerment Network of Washington State
First Focus on Children
Food Research & Action Center (FRAC)
Hunger Free America
Hunger Free Colorado
Just Harvest
Massachusetts Law Reform Institute
National Consumer Law Center, on behalf of its low-income clients
Prosperity Now
SaverLife
Western Center on Law and Poverty