



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Transitional Assistance

CHARLES D. BAKER
Governor

MARYLOU SUDDERS
Secretary

KARYN POLITO
Lieutenant Governor

AMY KERSHAW
Commissioner

October 29, 2020

Mr. Michael D. Hurley
Senate Clerk
Office of the Clerk of the Senate
State House, Room 335
Boston, MA 02133

Mr. Steven T. James
House Clerk
Office of the Clerk of the House of Representatives
State House, Room 145
Boston, MA 02133

SENT VIA EMAIL

Dear Clerks Hurley and James:

Pursuant to section 5I of Chapter 18 of the Massachusetts General Laws, please find enclosed a report from the Department of Transitional Assistance entitled "*Prohibited Items and Locations Report*".

If you have any questions, please contact the Department's Director of External Affairs, Chris Power, at (617) 777-6256.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Kershaw".

Amy Kershaw

Charles D. Baker
Governor

Karyn Polito
Lieutenant Governor



Marylou Sudders
Secretary

Amy Kershaw
Commissioner

Prohibited Items and Locations Report

October 2020



DEPARTMENT OF TRANSITIONAL ASSISTANCE PROHIBITED ITEMS AND LOCATIONS REPORT

OCTOBER 2020

OVERVIEW

The Department of Transitional Assistance (DTA) is pleased to submit this report on the enforcement of Electronic Benefit Transfer (EBT) prohibition, as required by sections 5I of Chapter 18 of the Massachusetts General Laws.

AGENCY OVERVIEW

DTA's mission is to assist and empower low-income individuals and families to meet their basic needs, improve their quality of life, and achieve long-term economic self-sufficiency. DTA offers a comprehensive system of programs and supports to help individuals and families achieve greater economic self-sufficiency, including food and nutritional assistance, economic assistance, and employment supports.

DTA serves one out of every nine people in the Commonwealth including working families, children, elders, and people with disabilities.

PROGRAM INTEGRITY DIVISION

Preventing fraud, waste, and abuse is a top priority of DTA to ensure that every benefit dollar goes to individuals and families who truly need it. The Program Integrity Division of DTA performs critical agency functions, including the oversight of fraud investigations and overpayment collection, audit supervision, regulatory compliance, and more.

There are a number of channels through which suspected fraud can be identified by or reported to the agency. Internally, referrals are generated from case managers, as a result of findings from interagency electronic data matches, or by way of advanced analytics. DTA also maintains a fraud hotline, where allegations of fraud can be reported anonymously. Each case of potential fraud is reviewed and investigated by the Fraud Investigations and Data Matching Unit to determine whether the allegation can be substantiated. If DTA substantiates an allegation of fraud, appropriate action can be taken, including but not limited to case closure or a referral being made to the appropriate agency for investigation.

REFERRALS TO THE BUREAU OF SPECIAL INVESTIGATIONS

DTA is responsible for identifying cases where fraud may exist and pursuing those cases administratively. Because DTA is not a law enforcement agency, cases that are unable to be fully pursued administratively are identified and referred to the State Auditor's Bureau of Special Investigations (BSI) for a more comprehensive investigation that may result in criminal charges. BSI is charged with the criminal investigation of claims of fraudulent or wrongful

receipt of payment or services for all public assistance programs throughout the Commonwealth.

The cases investigated and reported by BSI have been referred to them by DTA to ensure appropriate action can be taken on those attempting to defraud the Commonwealth. 3,473 cases were referred to BSI by the department in Fiscal Year 2020.

PROGRAM VIOLATIONS

Program violations are broken down into two categories, intentional or unintentional.

- An Intentional Program Violation (IPV) occurs if a hearing officer finds that a client purposefully made a false or misleading statement or representation or concealed or withheld facts from DTA to obtain benefits for which they did not qualify. A recipient can also be charged with a program violation for using their EBT card to make a prohibited purchase.
- An Unintentional Program Violation (UPV) is when an individual does not report or delays reporting a change in household status without the intent to mislead or misrepresent their circumstances.

During Fiscal Year 2020, approximately 257 cases were closed due to an IPV. Another 1,318 were closed due to a UPV. There was \$31,536 in savings attributable to discontinued benefits due to IPVs, and \$84,660 in savings attributable to discontinued benefits for UPVs. These figures represent a decrease from the previous fiscal year, which is primarily driven by programmatic and policy changes the Department implemented in response to COVID-19. The cases closed as a result of UPV and IPV in this fiscal year account for a total overpayment amount of \$777,639, which will eventually be repaid by clients who received these benefits.

The majority of the violations involve SNAP. Contextually, as of May 2020, the most recent month for which caseload data is available for all programs, DTA provided benefits to approximately 537,236 households through SNAP and 54,775 households through its economic assistance programs, including TAFDC and EAEDC. Caseload populations typically stay relatively consistent throughout a calendar year. DTA provides updates to caseload information monthly via the DTA website.¹

ENFORCEMENT OF MGL CHAPTER 18, SECTIONS 5I AND 5J

Recipients of economic assistance benefits administered by DTA may access their benefits using an electronic benefits transfer (EBT) card at a point of sale (POS) retail terminal or by withdrawing funds from an automated teller machine (ATM). Chapter 18 of the Massachusetts General Laws limits where economic assistance funds may be used, and the items that can be

¹ Department of Transitional Assistance Research and Reports. <https://www.mass.gov/departments-of-transitional-assistance-research-and-reports>

purchased with those funds. SNAP benefits are unable to be redeemed for cash at ATMs or through cash back options at POS terminals.

To limit the use of economic assistance at locations where prohibited, DTA closely monitors ATM and POS transactions made by recipients in retail and other establishments and has been doing so since February 2013. Each year, DTA's Program Integrity Unit monitors millions of EBT transactions to ensure that recipients are not using their economic assistance benefits at prohibited locations and, where possible, to help ensure that prohibited items are not being purchased.

In Fiscal Year 2020, DTA blocked more than 482 additional POS and ATM terminals at prohibited locations, bringing the total of blocked terminals in the state to 3,414. Establishments that exclusively or primarily sell alcohol represent the majority of the prohibited establishments, however prohibited locations also include smoke shops, casinos, cruise ships, tattoo parlors, nail salons, recreational marijuana establishments, and more.

The process of blocking establishments prohibited from accepting EBT cards is ongoing, and DTA continues to work with third party processors to enhance and expand this initiative.

RETAILER TRAINING AND OUTREACH

Working with retailers is essential to DTA's program integrity success. Outreach and education to existing and new retailers across the Commonwealth is performed by DTA staff to ensure they understand their responsibilities. In particular, DTA conducts outreach and provides training to small, independent stores and retailers across the Commonwealth to ensure owners and employees are aware of their legal responsibilities. DTA has developed signage that is available for download on the DTA website indicating products that are ineligible for purchase with economic assistance. The signage utilizes text and graphics to note what constitutes a prohibited item. Any business that accepts payments via EBT cards is required to post the signage.²

RECREATIONAL MARIJUANA LEGALIZATION

In 2017, when the sale of recreational marijuana was legalized, the Legislature amended the list of prohibited items and locations to include recreational marijuana.³

DTA has developed a responsive protocol to engage all newly licensed retail recreational marijuana establishments and make them aware of their legal obligation regarding the acceptance of DTA economic assistance. The protocol includes an initial letter sent from DTA's Commissioner to new licensees informing them of relevant law and potential sanctions for violations of the law. The Program Integrity Division works with licensees to answer questions,

² M.G.L. Ch. 18, Sec. 5N

³ M.G.L. Chapter 18, Secs. 5I and 5J (As amended by Chapter 55 of the Acts of 2017)

provide resources, and conduct on-site visits to ensure DTA's ATM and POS blocking initiative, which has been extended to retail recreational marijuana establishments, is working properly.

At the time of this report, DTA has engaged and visited all 34 operational recreational marijuana locations in the Commonwealth. As a result, the Department has blocked more than \$7,345 worth of attempted cash withdrawals at these locations. Ongoing monitoring of EBT transactions by the Program Integrity Division will allow DTA to respond as necessary to any prohibited purchases or attempted purchases at any licensed recreational marijuana establishments. As the Cannabis Control Commission continues to approve retail licenses across the Commonwealth, DTA will continue to engage licensees and monitor relevant transactions to ensure compliance by retailers and clients.