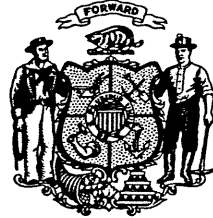


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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-201

AN ORDER to create chapter DWD 14, relating to the administration of an electronic benefit transfer system for the delivery of food stamp benefits.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

12-14-98 RECEIVED BY LEGISLATIVE COUNCIL.

01-15-99 REPORT SENT TO AGENCY.

RS:LR:jal;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 98-201

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

In s. DWD 14.11 (1) (b), the permissive language for the number of POS terminals that retailers have should be changed from permissive to mandatory, to conform with 7 CFR s. 274.12 (g) (4) (ii). For example, subd. 1. should read "the retailer shall have POS terminals for all checkout lanes."

2. Form, Style and Placement in Administrative Code

- a. In the plain language analysis, under fraudulent activity, the reference "s. 49.127, Stat." should be replaced by the reference "s. 49.127, Stats."
- b. In s. DWD 14.02 (6), the phrase " , for the purposes of this rule," should be deleted.
- c. In s. DWD 14.025, subs. (10) to (13) should be alphabetized. Also, in sub. (13), the hyphen should be replaced by the word "to."
- d. In s. DWD 14.02 (25), delete the last sentence and place it in a note. The sentence is not part of the definition.

e. In s. DWD 14.04 (1), insert the note after the text of that subsection rather than in the middle of it. Also, in sub. (2), the second set of parenthetical notations should be replaced by commas.

f. In s. DWD 14.08 (1), the phrase "is also responsible for reporting" should be replaced by the phrase "shall report." Also, if the cardholder is the same person as the recipient, consistent terminology should be used throughout the subsection.

g. In s. DWD 14.09 (4), use pars. (a) and (b) to separately delineate the two paragraphs present in that subsection. In addition, delete "1:1" and replace it with the phrase "one to one."

h. In s. DWD 14.10 (2), delete the abbreviation "etc." and replace it with the phrase "and others."

i. In s. DWD 14.11, sub. (1) should begin on a separate line and similarly, the subdivisions in sub. (1) (b) should be listed and numbered as subs. 1. and 2. Finally, in sub. (3), the paragraphs should be separately listed; in par. (a), the word "any" should be replaced with the word "Any"; and in par. (c), the phrase "be responsible to" should be deleted.

j. In s. DWD 14.12 (2), the note should not be inserted in the text of that subsection. Place it after the subsection in a separate note. Also, the remaining material either should be combined into one subsection or numbered as pars. (a) and (b).

k. In s. DWD 14.12 (3), the two paragraphs in that subsection should be labeled as pars. (a) and (b).

l. In s. DWD 14.12 (3), delete "see below" and insert "as provided in this subsection."

m. In s. DWD 14.14, the phrase "are expected to" should be replaced by the word "shall." Also, in the last sentence, the phrase "other than" should be replaced by the phrase "in addition to."

n. In s. DWD 14.15, the first paragraph should be numbered sub. (1) and current subs. (1) and (2) should be renumbered subs. (2) and (3), respectively. Then, in that first subsection, delete the slashed alternative "and/or" and insert the phrase "or both" at the end of that sentence. Also, instead of the phrase "other than English," insert the phrase "in addition to English."

o. In s. DWD 14.15 (2), the items listed after the colon should be listed as pars. (a), (b) and (c).

p. The two paragraphs in s. DWD 14.16 should be labeled as subs. (1) and (2).

q. In s. DWD 14.19 (1), the acronym "ADH" is used to refer to an administrative disqualification hearing. This term does not appear to be used elsewhere in the rule. Therefore, the acronym is not needed and should be deleted.

r. In s. DWD 14.19 (1), the three paragraphs delineated in that subsection should be numbered pars. (a), (b) and (c). Furthermore, delete the parentheses in sub. (1) surrounding “7 CFR 273.16.” Instead of using parentheses, use the phrase “as provided in” prior to that citation. Further, in the second paragraph of sub. (1), which should be renumbered as par. (b), there should be a comma after the statute cited, and the notation “Stat.” should be “Stats.” The same comment applies to the statutory citation in the third paragraph.

s. The introduction to s. DWD 14.25 should be rewritten to read: “All food stamp benefits shall be expunged . . . if any of the following occur:”. The following subsections then should be listed and begin with a capitalized letter.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. DWD 14.11 (1) (b), a more precise reference to the code of federal regulations would be 7 CFR s. 274.12 (g) (4) (ii).

b. In s. DWD 14.11 (2), delete the information in the parentheses and cross-reference s. DWD 14.12 (3).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the plain language analysis, first paragraph, insert a comma between s. 49.129 and the notation “Stats.”

b. In the plain language analysis, under program structure, use semicolons to separate the different components of the rule which are listed there.

c. In ss. DWD 14.01 and 14.02, insert periods after the titles and underscore the periods.

d. In s. DWD 14.02 (2), a “household” is referred to. Does this definition mean to refer to a “food stamp group”? If so, the terms should be used consistently.

e. In s. DWD 14.02 (12), do not capitalize any of the terms in that definition other than “U.S.”

f. In s. DWD 14.08 (1), specify how long the hold on card access will be in place.

g. In s. DWD 14.08 (2), should the word “authorized” be changed to “required”?

h. In s. DWD 14.09 (2) (a), separate the components of the recipient training with semicolons rather than commas for easier readability.

i. In s. DWD 14.10 (3), do not capitalize the words “administrative” and “register.”

j. In s. DWD 14.11 (2), delete the semicolon after the subsection title and insert a period.

k. In ss. DWD 14.12 (3) and 14.13 (1), certain actions are described as occurring within a “specified period of time” or occurring “by a specified day and time.” Where are these specifications stated? Why can’t a particular number of days or weeks be inserted in the rule?

l. In s. DWD 14.13 (2), before “food stamp application,” insert the phrase “the time of.”

m. In s. DWD 14.15 (1), use semicolons instead of commas to separate the different types of services which will be provided to retailers by the EBT vendor.

DWD 14

ELECTRONIC BENEFIT TRANSFER

The Wisconsin Department of Workforce Development proposes an order to create ch. DWD 14, relating to the administration of an electronic benefit transfer system for the delivery of food stamp benefits.

Analysis

Statutory authority for rule: §49.129(7), Stats.
Statute interpreted by the rule: §49.129, Stats.

1995 Wisconsin Act 368 created s. 49.129 Stats., which directs the Department of Workforce Development to administer an electronic benefit transfer (EBT) system for the delivery of food stamps as an alternative to issuing food stamp coupons. The statute also directs the Department to adopt administrative rule provisions for the administration of the EBT system which shall include rules relating to the liability of a recipient for lost benefits after the loss or theft of a card issued to the recipient, fraudulent activity as a basis for the suspension of a recipient, retailer or other participant from the program, confidentiality, and security measures.

In addition to sec. 49.129, Stats., the Department is acting under the authority of the food stamp regulations of the U.S. Department of Agriculture, and related federal laws in proposing this rule.

Program structure. The proposed rule establishes the basic structure of the state's EBT program, including mandatory recipient participation, the issuance of plastic magnetic stripe cards, the assignment of personal identification numbers (PINs), the designation of primary and secondary cardholders, training for recipients, retailers, and others on the use of the system, deployment of point of sale terminals to retailers, and customer service requirements.

Lost or stolen card. The proposed rule provides that the loss or theft of an EBT card shall be reported immediately to recipient customer service. The department shall replace the card (either by mail or pickup at the ES agency) within 5 business days. If the card loss rate is excessive, the department may institute a card replacement fee not to exceed the actual cost of card replacement.

Liability for lost benefits. The Electronic Funds Transfer Act (15 U.S.C. §1693; the "Act") establishes a framework of rights, liabilities and responsibilities

of participants in electronic fund transfer systems. The Act is implemented by Regulation E (12 CFR Part 205) issued by the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System had previously ruled that the Electronic Fund Transfer Act, as implemented by Regulation E, applied to electronic benefit transfer systems. Congress felt that Regulation E provisions limiting a recipient's liability for unauthorized transfers "could raise serious budgetary problems at the state and local level". The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (or PRWORA) amended Section 904 of the Electronic Fund Transfer Act to exempt needs-tested EBT programs established under State or local law or administered by a State or local government. Regulation E was revised to implement the PRWORA amendment effective September 15, 1997.

Under this proposed rule, the recipient is liable for benefits lost as a result of failure by the recipient to safeguard the card and PIN up to the point in time that the recipient reports the loss to recipient customer service.

Purchase Transaction Fee payment. 1995 Wisconsin Act 368 directs that, in implementing EBT, the department shall, to the extent possible, maximize the use of existing point-of-sale (POS) terminals. The department has heard the retailers' concern that there may be costs associated with EBT implementation and operation and is of the view that this concern may negatively impact the use of existing POS terminals. Therefore the department will address the retailer's concerns during the first two years of EBT operations by paying a fee of \$.08 per food stamp transaction. It is understood that the fee applies only to food stamp purchase transactions conducted on POS terminals owned or leased by retailers which have signed an agreement with the EBT vendor to use such equipment.

During the two year period, the department will commission a study by an independent entity to determine actual EBT costs incurred by retailers and any offsetting savings from the elimination of paper food coupon handling. Based on the study results and other relevant factors, the department shall determine at the end of the two years if a transaction fee shall continue to be paid and, if so, at what amount.

Confidentiality. The Department will require the EBT vendor and card issuer to adhere to state and federal requirements related to confidentiality of food stamp program information.

Fraudulent activity. Food stamps regulations on disqualification for intentional program violations will apply to fraudulent EBT card transactions. Similarly, a retailer may be disqualified from the food stamp program for failure to handle EBT transactions in compliance with federal food stamp regulations. New penalties for food stamp offenses are specified in s. 49.127 Stat.

SECTION 1. DWD 14 is created to read:

DWD 14

ELECTRONIC BENEFIT TRANSFER

- DWD 14.01 Authority and purpose
- DWD 14.02 Definitions
- DWD 14.03 Mandatory participation
- DWD 14.04 Card issuance
- DWD 14.05 PIN selection
- DWD 14.06 Primary cardholder
- DWD 14.07 Secondary cardholder
- DWD 14.08 EBT card and PIN security
- DWD 14.09 Training
- DWD 14.10 Retailer Owned or Leased POS Equipment
- DWD 14.11 Vendor Deployment of EBT only POS Equipment
- DWD 14.12 Access to benefits
- DWD 14.13 Benefit availability dates
- DWD 14.14 Recipient customer service
- DWD 14.15 Retailer customer service
- DWD 14.16 Card replacement
- DWD 14.17 PIN replacement
- DWD 14.18 Liability for lost benefits
- DWD 14.19 Fraudulent activity
- DWD 14.20 Confidentiality
- DWD 14.21 EBT system security
- DWD 14.22 Resolution of disputes
- DWD 14.23 Conversion to coupons
- DWD 14.24 Stale accounts
- DWD 14.25 Expungement
- DWD 14.26 Future programs

DWD 14.01 Authority and purpose. This chapter is promulgated under the authority of s. 49.129(7) Stats., for the purpose of administering an electronic benefit transfer (EBT) system for delivery of food stamp benefits, as an alternative to issuing food stamp coupons.

DWD 14.02 Definitions. In this chapter:

(1) "Authorized buyer" means an individual designated by a food stamp group to have access to the food stamp account as a secondary cardholder on behalf of the group.

(2) "Authorized representative" means an individual designated by a responsible member of the household to apply for food stamps on the group's behalf and may be designated as the food stamp payee for the group.

(3) "Card issuer" means the entity designated by the department to issue EBT cards and maintain the card issuance data base.

(4) "Coupon" means any coupon, stamp, access device or type of certification provided under 7 CFR 271, subchapter C, for the purchase of eligible food.

(5) "Department" means the department of workforce development.

(6) "EBT" or "electronic benefit transfer" (for the purposes of this rule, means an electronic system that allows a recipient on-line access to their food stamp benefits through the use of a POS device at an FNS-authorized retailer, thereby authorizing the electronic payment of federal funds to the retailer to settle the approved purchase of eligible food items.

(7) "EBT account" means an account established by the department or its EBT vendor on behalf of the food stamp group.

(8) "EBT vendor" means the entity that is, or is teamed with, a financial institution or fiscal intermediary that the department has contracted with to provide EBT services.

(9) "Economic support (ES) agency" means a county department of social services or human services, a W-2 agency or a tribal agency which administers economic support programs, including food stamps.

(10) "Food stamp group" means those persons whose financial eligibility for food stamps is determined together.

(11) "FNS" means the food and nutrition service, a subdivision of the United States department of agriculture that has administrative responsibility for the food stamp program.

(12) "Food stamp regulations" means the regulations of the US Department of Agriculture found in title 7, Chapter II of the Code of Federal Regulations.

(13) "Food stamp act" means the food stamp act of 1977 as amended, ⁷ U.S. Code ss. 2011 - 2036.

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(14) "Group living arrangement" has the meaning given in 7 CFR 271.2 and is a public or private nonprofit residential setting that serves no more than 16 residents and is certified by a regulating state or local agency.

(15) "IPV" or "intentional program violation" has the meaning given in 7 CFR 273.16(c), and shall consist of having intentionally: (a) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (b) committed any act that constitutes a violation of the food stamp act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons.

(16) "Manual transaction" means a purchase of eligible food items at an FNS authorized retailer that does not use a POS device.

(17) "On-line" means immediate access, via the EBT card, to benefit information stored in a central computer database for the purpose of authorizing electronic food stamp transactions at the point of sale.

(18) "PAN" or "primary account number" is the number on the EBT card that is linked to the food stamp account established on behalf of the food stamp group.

(19) "PIN" or "personal identification number" means a secret number assigned to the cardholder for use in conjunction with the EBT card to access benefits in a secure manner.

(20) "Primary person" means the person whose name is listed first on the application form as the person applying for food stamps for his or her household.

(21) "POS" or "point of sale" means the place in a retail food store where consumers pay for goods and services.

(22) "POS terminal" means an electronic hardware device used at the point of sale which is connected to the computer system of a third party processor or the EBT vendor and is designed to record, forward and obtain approval for electronic transactions.

(23) "Retail food store" has the meaning given in 7 CFR 271.2.

(24) "Settlement" means the exchange of information that produces the transfer of funds from one entity to another, completing a financial transaction.

(25) "Supermarket" means a type of business having annual gross sales of \$2 million or more. The type of business is selected by the retailer on the Food Stamp Program Application for Stores (FNS 252).

(26) "Third party processor" has the meaning given in 7 CFR 274.12(h)(5).

DWD 14.03 Mandatory participation. All food stamp households in Wisconsin shall participate in the EBT program.

DWD 14.04 Card issuance. (1) When a food stamp group has been determined eligible for food stamps at the economic support agency, the department shall provide an EBT card which allows the food stamp group to access food stamp benefits in its EBT account. The department shall authorize the card issuer to issue the EBT cards. The card issuer shall mail the card to the food stamp group. The department may also require economic support agencies to maintain card issuance capability for emergency issuances. A statement of nondiscrimination shall be included in the mailer that is used to issue the card.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(h)(6)(i)(B) as allowed by a waiver approved by the U.S. Department of Agriculture.

The department may require a special activation procedure for cards to assure that the rightful food stamp group receives the card.

(2) The card shall physically resemble a financial transaction card similar to a debit card. It shall contain a primary account number (PAN) and the address of the office where it can be returned if found or no longer in use. The card (as distinguished from the EBT system) may be used by another program for benefit or service access supported by the other program's computer system. The card is the property of the State of Wisconsin.

DWD 14.05 PIN selection. The department shall provide for PIN selection by the cardholder. The department shall allow the PIN to be changed if the cardholder requests it. The department shall provide instructions on use of the card with the PIN, including how to change the PIN if the cardholder wishes to do so.

DWD 14.06 Primary cardholder. The department shall provide one designated EBT card and PIN to the primary person to access the food stamp account. The primary person's name and signature shall be on the permanent EBT card. For residents of drug and alcohol treatment centers and group living

arrangements, the department may issue the card to a person employed by the facility who is designated as the authorized representative.

DWD 14.07 Secondary cardholder. The department shall provide a card and PIN to an individual designated by the food stamp group as an authorized buyer or food stamp payee. The PIN and PAN shall be different from that of the primary cardholder but shall be linked to the same food stamp account. There shall be a limit of one secondary cardholder per food stamp group.

DWD 14.08 EBT card and PIN security. (1) **RECIPIENT RESPONSIBILITY.** The recipient is responsible for protecting the security of his or her EBT card and PIN. The recipient accepts the liability for lost benefits when the recipient gives the card and PIN to another person. The recipient is also responsible for reporting a lost or stolen card or compromised PIN to recipient customer service. When the cardholder reports one of these events, the EBT vendor shall immediately place a hold on card access to the food stamp account. The department may require that the cardholder sign a card and PIN security responsibility statement prior to issuance of benefits via EBT.

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(2) **RETAILER RESPONSIBILITY.** The retailer is authorized to accept the EBT card presented with a valid PIN.

DWD 14.09 Training. (1) **PROVISION OF TRAINING.** The department shall provide training on the use of the EBT system to benefit recipients; advocates for benefit recipients; appropriate county, state and tribal governing body employees; and food retailers. The department shall involve representatives of the affected groups in the design of the training.

(2) **RECIPIENTS.** (a) The department shall train recipients and their representatives on the use of the EBT system and EBT card prior to receipt of benefits via EBT. Recipient training shall include: information on unlimited transactions, access to account balances, transaction receipts, availability of benefits, issuance and replacement of cards and PINs, security of cards and PINs, the recipient's responsibilities for reporting lost or damaged EBT cards, stale account handling, benefit availability, manual transactions, access to retail stores and dispute resolution procedures.

(b) The department shall provide an informational pamphlet to all EBT households as part of its training efforts. The department intends to make client training material available in retail stores, community centers, and other designated areas.

(c) The department shall make an informational EBT video available for viewing at EBT training sites and each economic support agency.

(d) The department shall provide 1:1 training in the use of EBT equipment for accessing benefits and obtaining account balance information if requested by the recipient or if any recipient is identified as having actual or potential problems using the EBT system.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(f)(10)(ii) as allowed by a waiver approved by the U.S. Department of Agriculture.

(e) The department shall provide training for bilingual households and for households with disabilities as prescribed by state and federal law. Written materials shall be provided for bilingual households as prescribed in 7 CFR 272.4(b).

(3) CLIENT ADVOCATES. The department shall make the training provided to recipients available to client advocates.

(4) FOOD RETAILERS. The EBT vendor shall provide training to food retailers and their staff if the vendor has installed POS equipment. Training shall include technical instruction on the specific EBT equipment in the retailer's store, manual procedures, and customer service contact numbers. The department shall make 1:1 training available at retailer request.

The EBT vendor shall provide information to retailers using owned or leased POS equipment on manual, customer service and settlement procedures for internal training use. X

(5) STAFF TRAINING. The department shall provide training to state and local agency staff on topics such as training recipients on the use of the EBT system, installation, operation, and use of any administrative equipment, card issuance and PIN selection equipment, use of the vendor's administrative system, dispute resolution procedures, system security, and recipient and retailer customer services.

DWD 14.10 Retailer Owned or Leased POS Equipment. (1) FEE PAYMENT. During the first two years of EBT operations, the department shall pay a fee of \$.08 per food stamp purchase and merchandise return transactions conducted on POS terminals owned or leased by retailers which have signed an agreement with the EBT vendor to use such equipment. The fee does not apply to balance inquiries or denial transactions which, by definition, are non-purchase and non-settling transactions. The department shall require that the vendor disburse the fee to the retailers on a pass-through basis as part of the normal settlement process.

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(2) **STUDY TO DETERMINE ACTUAL COSTS.** During the two year period, the department shall commission a study by an independent entity to determine actual EBT costs incurred by retailers and any offsetting savings from the elimination of paper food coupon handling. In signing the vendor agreement, the retailers shall affirm their intent to cooperate with the independent entity in gathering relevant cost data. The department shall elicit the assistance of representatives of the retailer community, financial institutions, state and local agencies, etc. in guiding the conduct of the study.

(3) **CONTINUATION OF A FEE.** Based on the study results and other relevant factors, the department shall determine by the end of the two years if a transaction fee shall continue to be paid and, if so, at what amount. The department shall publish its decision in the Wisconsin Administrative Register. If, for reasons directly attributable to actions of the department or its agents, the department cannot make the decision by the end of the two years, it will continue to pay the fee at the established rate until publication of the decision in the Register.

DWD 14.11 Vendor Deployment of EBT-only POS Equipment. The department will afford all authorized retailers the opportunity to participate in the EBT system. By federal regulation, the department may not require authorized retailers to pay costs essential to and directly attributable to EBT system operations as long as the equipment or services are provided by the EBT vendor or its agent and are utilized solely for food stamp benefit issuance.

If the vendor or agent must provide equipment to a retailer to afford the opportunity to participate in the EBT system, the following criteria shall apply: (1) **POS TERMINALS.** (a) The retailer must have \$100 or more per month in food stamp redemption activity and have the capability to support operation of the terminal.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(g)(4) as allowed by a waiver approved by the U.S. Department of Agriculture.

(b) The following POS terminal deployment formula, as specified in 7 CFR 274.12(g), will be followed: (i) When food stamp redemption activity is 15% or more of total food sales, the retailer may have POS terminals for all checkout lanes. (ii) When food stamp redemption activity is less than 15% of total food sales, designated supermarkets may have one POS terminal for every \$11,000 in monthly redemption activity up to the number of lanes per store. All other retailers may have one POS terminal for every \$8,000 in monthly redemption activity.

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(2) MANUAL TRANSACTION CAPABILITY: The department shall provide manual transaction capability to retailers who do not qualify for a POS terminal. (Refer below to "manual access" for further details on the manual transaction process.)

(3) TELEPHONE LINES. The EBT vendor shall supply the necessary telephone lines for EBT system access in accordance with regulations in 7 CFR 274.12 as amended and clarified by FNS. A telephone line may be installed based on the following criteria: (a) any supermarket with multi-lane coverage, or (b) \$8000 average food stamp sales per month for neighborhood grocery stores, or (c) \$3000 average food stamp sales per month for convenience stores. The EBT vendor shall be responsible to order and maintain telephone lines, if needed.

DWD 14.12 Access to benefits. (1) ACCESS BY RECIPIENT. The department shall provide the capability for the cardholder to access the appropriate food stamp account in retail food stores authorized by FNS within the Wisconsin EBT project area.

(2) POS ACCESS. When paying for groceries in a store equipped with a POS terminal, the food stamp recipient's card is swiped through the terminal and the recipient enters the PIN to access the food stamp account. The system electronically verifies the PIN and the account balance, and sends an authorization or denial back to the retailer. If authorized, the recipient's account is debited for the amount of the purchase. (NOTE: When the retailer is operating its own POS equipment, settlement of the transaction will occur to the bank holding the retailer's account on the next business day if received by the EBT vendor prior to their end of day cutoff. If there is a third party processor operating POS equipment, settlement of the transaction will occur to the third party processor's bank on the next business day. The third party processor is responsible for settling with the retailer according to their business agreement.) If the total cost of the food items exceeds the balance in the account, the transaction will be denied. The account balance will be provided on the denial receipt.

Cash change will not be provided to the recipient. The EBT system shall provide a receipt to the recipient that will include the account balance. The recipient is expected to retain the last receipt and have it available when the next purchase is made.

(3) MANUAL ACCESS. A manual process is required when a POS device is not available. A POS device is not available when the retailer does not have a POS device or the POS device is not useable. The retailer shall verify the recipient's account balance by calling retailer customer service. Except for situations in which the vendor's system is unavailable (see below), if the retailer

fails to verify the account balance and the recipient's account balance is insufficient to cover the amount of the transaction, the retailer is liable for the difference. The recipient shall sign the voucher and receive a copy of the voucher. If the retailer cannot access the EBT vendor's system because the EBT system is unavailable, the department may allow purchases up to a specified amount for which the EBT vendor would be liable.

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D) The amount of the purchase will be withdrawn from the recipient's account pending the vendor's receipt of the voucher from the retailer. If the retailer has not submitted the voucher within a specified period of time, the amount will be returned to the recipient's account. The retailer shall bear liability for the transaction if benefits are not available.

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because of late voucher?

(4) ACCESS IN BORDER STATES. Under federal policy, interested retailers in states bordering Wisconsin may be provided EBT system access if the department determines that the store's participation in the EBT system is necessary for recipient access based on demonstrated household shopping patterns.

DWD 14.13 Benefit availability dates. **(1) DAILY BENEFITS.** The department shall make daily (initial and supplemental) food stamp benefits available to recipients via their EBT account by a specified day and time.

(2) MONTHLY BENEFITS. The department shall make monthly food stamp benefits available to recipients via their EBT accounts on a staggered cycle over the first 15 days of the month. The department shall make the daily and monthly schedule available to recipients during EBT implementation and at food stamp application.

to read

DWD 14.14 Recipient customer service. The department shall provide, through the contract with the EBT vendor or agent, ongoing assistance to recipients, on a 24 hours per day, seven days per week basis, on the recipients' use of the EBT system. Recipients shall access this customer service through the use of a toll-free number shown on the back of the EBT card and provided in training material. Recipients are expected to use customer service to report lost or stolen cards, obtain current account balances and transaction history if transaction receipts are unavailable, institute card replacement and PIN change and resolve disputes regarding account transactions. The department shall assure that customer service is available in a language other than English as prescribed in state and federal law.

→ 50%

11 093.17.10 (5)

DWD 14.15 Retailer customer service. The department shall provide, through the contract with the EBT vendor, ongoing assistance to retailers, on a 24 hours per day, seven days per week basis, on the retailers' use of the EBT system. Retailers shall access this customer service through the use of the toll-

free number shown on the back of the EBT card and/or in the retailer training material. The department shall assure that customer service is available in a language other than English as prescribed in state and federal law.

(1) **FULL SERVICES.** The EBT vendor shall provide the following services to retailers with vendor supplied equipment: manual transaction processing, settlement information and assistance, requests for repair and replacement of vendor supplied EBT-only POS terminals, requests for supplies, reporting and general problem resolution.

(2) **LIMITED SERVICES.** The EBT vendor shall provide the following limited services to retailers operating their own equipment, retailers with third party processors, and retailers authorized to use manual vouchers: manual transaction approval and processing, settlement information and assistance, and requests for manual voucher supplies if not provided by a third party.

DWD 14.16 Card replacement. The household shall report the loss, theft or damage of the EBT card immediately to recipient customer service. The department shall replace the EBT card within 5 business days following notice by the household to recipient customer service.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12 (f)(5)(ii) as allowed by a waiver approved by the U.S. Department of Agriculture.

The department may require ES agencies to maintain card issuance capability for emergency situations. The department may institute a card replacement fee not to exceed the actual cost to replace the card if the card loss rate is excessive. The fee may be subtracted from the current food stamp allotment.

DWD 14.17 PIN replacement. The department shall replace the PIN if the PIN is compromised or the recipient wishes to change the PIN. The department shall provide PIN replacement through recipient customer service or at the local economic support agency. The department shall specify the PIN replacement procedure in the training material.

DWD 14.18 Liability for lost benefits. The recipient is liable for benefits lost as a result of failure by the recipient to safeguard the card and PIN up to the point in time that the recipient reports the loss to recipient customer service. The recipient is also liable for benefits lost due to fraud committed, in total or in part, by the recipient. The department shall assure the replacement of benefits lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. The department also shall assure the replacement of benefits that are lost due to system errors or malfunctions. A recipient shall follow the dispute resolution process specified in s. DWD 14.22 if he or she believes that benefit replacement is warranted.

by whom?
10/1/01

DWD 14.19 Fraudulent activity. (1) INDIVIDUAL. An individual may be disqualified from the food stamp program for an IPV related to fraudulent EBT transactions. IPV is determined by an administrative disqualification hearing (ADH), court hearing, or disqualification agreement or waiver. (7 CFR 273.16). An individual found guilty of an IPV is ineligible for one year for the first violation, two years for the second violation, and permanently for the third violation or for any violation involving the use of \$500 or more worth of food stamps for purposes other than which they are intended.

V Individuals may be fined, imprisoned or both for food stamp offenses as specified in s. 49.127, Stat, depending on the value of the food coupons and whether it is the first, second or subsequent offense.

C The EBT card is a financial transaction card. Financial card crimes are described in s. 943.41. Any person violating the provisions of this section is subject to the penalties described therein. *Note*

by whom?

(2) RETAILER. A retail food store or authorized wholesale food concern may be disqualified from the food stamp program by FNS if the firm fails to handle EBT transactions in compliance with federal food stamp regulations. FNS may, in lieu of a disqualification, subject the firm to a civil money penalty. *Note*
Refer to 7 CFR 278.6 for disqualification criteria and procedures.

DWD 14.20 Confidentiality. The department shall take all reasonable steps to ensure that information regarding food stamp recipients *still* will be kept confidential by the EBT vendor and the card issuer. The department shall oversee the EBT vendor's and card issuer's performance in this area.

DWD 14.21 EBT system security. The department shall take all reasonable steps to ensure the security of card issuance and the electronic transfer of benefits. The department shall oversee the EBT vendor's and card issuer's performance in this area.

DWD 14.22 Resolution of disputes. Recipients shall contact recipient customer service regarding EBT account transaction issues and requests for benefit replacement. A recipient who is dissatisfied with the decision made by recipient customer service regarding an EBT dispute or error will have access to a state or economic support agency dispute resolution process. If the recipient is still dissatisfied after using the dispute resolution process, he or she may request a hearing in accordance with ch. HSS 225. A description of the complete dispute resolution process shall be provided in the training material.

DWD 14.23 Conversion to coupons. Food stamp groups moving out of an EBT area in Wisconsin shall have their electronic food stamp benefits

converted to paper coupons as stated in 7 CFR 274.12(f)(6). The actual process will be included in the training material.

DWD 14.24 Stale accounts. A stale benefit account is an account which is closed at the direction of the department because it has not been accessed by the food stamp group for three months or longer. A stale benefit account shall be made available to the food stamp group if they reapply for food stamps or contact the local economic support agency. Refer to 7 CFR 274.12(f)(7) for stale account handling procedures.

DWD 14.25 Expungement. All food stamp benefits shall be expunged from the EBT account at the direction of the department if (1) benefits have not been accessed by the household for a period of one year, or (2) the EBT food account has been converted to food stamp coupons, or (3) a one-person food stamp group is denied due to death of the recipient. (4) The food stamp group loses its rights to the expunged benefits as stated in 7 CFR 274.12(f)(7).

or note describe

DWD 14.26 Future programs. If the department decides to use the EBT system to deliver benefits for any other program it administers, the department shall designate the program by rule. The department also may enter into an agreement with any other government agency to deliver benefits paid by that agency through the use of the system.

SECTION 2. The rules contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

(End)

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY

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June 25, 1999

JUN 25 REC'D

The Honorable Bonnie L. Ladwig, Chair
Assembly Committee on Children and
Families
113 West, State Capitol
Madison, WI 53708

The Honorable Judith Robson, Chair
Senate Committee on Human Services and Aging
15 South, State Capitol
Madison, WI 53707

Re: Clearinghouse Rule 98-201, Electronic benefit transfer

Dear Representative Ladwig and Senator Robson:

As a result of recent discussions with the federal Food and Nutrition Service, the Department proposes the following modification to this rule:

Proposed DWD 14.11(3) is revised to read as follows:

DWD 14.11(3) TELEPHONE LINES. A retailer with average food stamp redemptions of at least \$5000 per month may request a dedicated telephone line for exclusive EBT use and the EBT vendor shall install such a line. In providing retailers access to the vendor's system, the EBT vendor shall comply with the regulations in 7 CFR 274.12, as amended and clarified by FNS.

The earlier text provided for a tiered eligibility threshold for supplying telephone lines for the EBT system: \$3000 for convenience stores, \$8000 for neighborhood grocery stores, and all multi-lane supermarkets. The proposed change is in response to a request from FNS to use a single \$5000/month eligibility threshold.

Sincerely,

A handwritten signature in black ink, appearing to read 'Howard I. Bernstein'. The signature is written in a cursive style with a large, sweeping initial 'H'.

Howard I. Bernstein
Legal Counsel

copy: Committee members
Brandon Scholz, Wis. Grocers Assn.

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

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June 1, 1999

JUN 04 REC'D

The Honorable Bonnie L. Ladwig, Chair
Assembly Committee on Children
and Families
113 West, State Capitol
Madison WI 53708

The Honorable Judith Robson, Chair
Senate Committee on Human Services and Aging
15 South, State Capitol
Madison WI 53707

Re: Clearinghouse Rule 98-201
Electronic benefit transfer

Dear Representative Ladwig and Senator Robson:

Our further review of this rule has led to the following minor modification to correct a drafting error:

Proposed DWD 14.26 is revised to read as follows:

DWD 14.26 QUEST operating rules. The department shall incorporate the terms of the Quest operating rules of the National Automated Clearing House Association into its contract with the EBT vendor.

NOTE: A copy of the QUEST Operating Rules may be ordered by contacting NACHA, 13665 Dulles Technology Drive - Suite 300, Herndon, Virginia 20171, telephone 1-800-487-9180.

The earlier language of this section incorrectly referred to the treatment of the Quest rules as "incorporation by reference."

Sincerely,

A handwritten signature in black ink, appearing to read 'Howard I. Bernstein'. The signature is fluid and cursive, written over a large, light-colored oval shape.

Howard I. Bernstein
Legal Counsel

cc: Committee members

Brandon Scholz, Wis. Grocers Assn.
2601 Crossroads Drive, Suite 185
Madison WI 53704-7923

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

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February 23, 1999

Senator Fred Risser
President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 98-201
RULE NO.: DWD 14
RELATING TO: Electronic Benefit Transfer

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form
2. Report consisting of:
 - a) DWD Rule Report.
 - b) Public Hearing Comment and Agency Response Form.
 - c) Legislative Council Rules Clearinghouse Report.
 - d) DWD Response to Legislative Council Rules Clearinghouse Report.
 - e) Fiscal Estimate.
 - f) Final Regulatory Flexibility Analysis.

Also included is a waiver of authority letter. If the respective standing committees have no objections to the rules, we respectfully request that their chairpersons sign the letter and return it as soon as possible.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Linda Stewart'.

Linda Stewart, Ph.D.
Secretary



State of Wisconsin
Department of Workforce Development

RULES in FINAL DRAFT FORM

Rule No.:

DWD 14

Relating to:

Electronic Benefit Transfer

DWD 14

ELECTRONIC BENEFIT TRANSFER

The Wisconsin Department of Workforce Development proposes an order to create ch. DWD 14, relating to the administration of an electronic benefit transfer system for the delivery of food stamp benefits.

Analysis

Statutory authority for rule: §49.129(7), Stats.
Statute interpreted by the rule: §49.129, Stats.

1995 Wisconsin Act 368 created s. 49.129, Stats., which directs the department of Workforce Development to administer an electronic benefit transfer (EBT) system for the delivery of food stamps as an alternative to issuing food stamp coupons. The statute also directs the department to adopt administrative rule provisions for the administration of the EBT system which shall include rules relating to the liability of a recipient for lost benefits after the loss or theft of a card issued to the recipient, fraudulent activity as a basis for the suspension of a recipient, retailer or other participant from the program, confidentiality, and security measures.

In addition to sec. 49.129, Stats., the department is acting under the authority of the food stamp regulations of the U.S. Department of Agriculture, and related federal laws in proposing this rule.

Program structure. The proposed rule establishes the basic structure of the state's EBT program, including mandatory recipient participation; issuance of plastic magnetic stripe cards; the selection of personal identification numbers (PINs); the designation of primary and secondary cardholders; training for recipients, retailers, and others on the use of the system; deployment of point of sale terminals to retailers; and customer service requirements.

Lost or stolen card. The proposed rule provides that the loss or theft of an EBT card shall be reported immediately to recipient customer service. The department shall replace the card (either by mail or pickup at the ES agency) within 5 business days. If the card loss rate is excessive, the department may institute a card replacement fee not to exceed the actual cost of card replacement.

Liability for lost benefits. The Electronic Funds Transfer Act (15 U.S.C. §1693; the "Act") establishes a framework of rights, liabilities and responsibilities of participants in electronic fund transfer systems. The Act is implemented by Regulation E (12 CFR Part 205) issued by the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System had previously ruled that the Electronic Fund Transfer Act, as implemented by Regulation E, applied to electronic benefit transfer systems. Congress felt that Regulation E provisions limiting a recipient's liability for unauthorized transfers "could raise serious budgetary problems at the state and local level". The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (or PRWORA) amended Section 904 of the Electronic Fund Transfer Act to exempt needs-tested EBT programs established under State or local law or administered by a State or local government. Regulation E was revised to implement the PRWORA amendment effective September 15, 1997.

Under this proposed rule, the recipient is liable for benefits lost as a result of failure by the recipient to safeguard the card and PIN. In other words, benefits will not be replaced if lost as a result of loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service.

Purchase Transaction Fee payment. 1995 Wisconsin Act 368 directs that, in implementing EBT, the department shall, to the extent possible, maximize the use of existing point-of-sale (POS) terminals. The department has heard the retailers' concern that there may be costs associated with EBT implementation and operation and is of the view that this concern may negatively impact the use of existing POS terminals. Therefore the department will address the retailer's concerns during the first two years of EBT operations by paying a fee of \$.08 per food stamp transaction. It is understood that the fee applies only to food stamp purchase transactions conducted on POS terminals owned or leased by retailers which have signed an agreement with the EBT vendor to use such equipment.

During the two year period, the department will commission a study by an independent entity to determine actual EBT costs incurred by retailers and any offsetting savings from the elimination of paper food coupon handling. Based on the study results and other relevant factors, the department shall determine at the end of the two years if a transaction fee shall continue to be paid and, if so, at what amount.

Confidentiality. The department will require the EBT vendor and card issuer to adhere to state and federal requirements related to confidentiality of food stamp program information.

Fraudulent activity. Food stamps regulations on disqualification for intentional program violations will apply to fraudulent EBT card transactions. Similarly, a

retailer may be disqualified from the food stamp program for failure to handle EBT transactions in compliance with federal food stamp regulations. New penalties for food stamp offenses are specified in s. 49.127 Stat.

Mandatory Participation: The department shall implement EBT in a pilot area before expanding statewide. All food stamp recipients shall participate in the EBT system when the county in which their food stamp case resides implements EBT.

Quest™ Operating Rules: The department may adopt requirements for the distribution of government benefits under the Quest service mark. The requirements are provided by the National Automated Clearing House Association or NACHA. The rules, known as the QUEST™ Operating Rules, may be adopted in whole except where the standards violate any state and federal laws and regulations or a variance is requested and granted by NACHA.

SECTION 1. DWD 14 is created to read:

DWD 14

ELECTRONIC BENEFIT TRANSFER

- DWD 14.01 Authority and purpose
- DWD 14.02 Definitions
- DWD 14.03 Mandatory participation
- DWD 14.04 Card issuance
- DWD 14.05 PIN selection
- DWD 14.06 Primary cardholder
- DWD 14.07 Secondary cardholder
- DWD 14.08 EBT card and PIN security
- DWD 14.09 Training
- DWD 14.10 Retailer Owned or Leased POS Equipment
- DWD 14.11 Vendor Deployment of EBT only POS Equipment
- DWD 14.12 Access to benefits
- DWD 14.13 Benefit availability dates
- DWD 14.14 Recipient customer service
- DWD 14.15 Retailer customer service
- DWD 14.16 Card replacement
- DWD 14.17 PIN replacement
- DWD 14.18 Liability for lost benefits
- DWD 14.19 Fraudulent activity
- DWD 14.20 Confidentiality

- DWD 14.21 EBT system security
- DWD 14.22 Resolution of disputes
- DWD 14.23 Conversion to coupons
- DWD 14.24 Stale accounts
- DWD 14.25 Expungement
- DWD 14.26 QUEST™ standards
- DWD 14.27 Future programs

DWD 14.01 Authority and purpose. This chapter is promulgated under the authority of s. 49.129(7) Stats., for the purpose of administering an electronic benefit transfer (EBT) system for delivery of food stamp benefits, as an alternative to issuing food stamp coupons.

DWD 14.02 Definitions. In this chapter:

(1) "Authorized buyer" means an individual designated by a food stamp group to have access to the food stamp account as a secondary cardholder on behalf of the group.

(2) "Card issuer" means the entity designated by the department to issue EBT cards and maintain the card issuance data base.

(3) "Coupon" means any coupon, stamp, access device or type of certification provided under 7 CFR 271, subchapter C, for the purchase of eligible food.

(4) "Department" means the department of workforce development.

(5) "EBT" or "electronic benefit transfer" means an electronic system that allows a recipient on-line access to their food stamp benefits through the use of a POS device at an FNS-authorized retailer, thereby authorizing the electronic payment of federal funds to the retailer to settle the approved purchase of eligible food items.

(6) "EBT account" means an account established by the department or its EBT vendor on behalf of the food stamp group.

(7) "EBT vendor" means the entity that is, or is teamed with, a financial institution or fiscal intermediary that the department has contracted with to provide EBT services.

(8) "Economic support (ES) agency" means a county department of social services or human services, a W-2 agency or a tribal agency which administers economic support programs, including food stamps.

(9) "FNS" means the food and nutrition service, a subdivision of the United States department of agriculture that has administrative responsibility for the food stamp program.

(10) "Food stamp act" means the food stamp act of 1977 as amended, 7 U.S. Code ss. 2011 to 2036.

(11) "Food stamp group" means those persons whose financial eligibility for food stamps is determined together.

(12) "Food stamp payee" means an individual designated by a responsible member of the food stamp group to receive an EBT card and have access to the food stamp account on behalf of the food stamp group.

(13) "Food stamp regulations" means the regulations of the US department of agriculture found in title 7, chapter II of the code of federal regulations.

(14) "Group living arrangement" has the meaning given in 7 CFR 271.2 and is a public or private nonprofit residential setting that serves no more than 16 residents and is certified by a regulating state or local agency.

(15) "IPV" or "intentional program violation" has the meaning given in 7 CFR 273.16(c), and shall consist of having intentionally: (a) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (b) committed any act that constitutes a violation of the food stamp act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons.

(16) "Manual transaction" means a purchase of eligible food items at an FNS authorized retailer that does not use a POS device.

(17) "On-line" means immediate access, via the EBT card, to benefit information stored in a central computer database for the purpose of authorizing electronic food stamp transactions at the point of sale.

(18) "PAN" or "primary account number" is the number on the EBT card that is linked to the food stamp account established on behalf of the food stamp group.

(19) "PIN" or "personal identification number" means a secret number assigned to the cardholder for use in conjunction with the EBT card to access benefits in a secure manner.

(20) "Primary person" means the person whose name is listed first on the application form as the person applying for food stamps for his or her household.

(21) "POS" or "point of sale" means the place in a retail food store where consumers pay for goods and services.

(22) "POS terminal" means an electronic hardware device used at the point of sale which is connected to the computer system of a third party processor or the EBT vendor and is designed to record, forward and obtain approval for electronic transactions.

(23) "Retail food store" has the meaning given in 7 CFR 271.2.

(24) "Settlement" means the exchange of information that produces the transfer of funds from one entity to another, completing a financial transaction.

(25) "Supermarket" means a type of business having annual gross sales of \$2 million or more.

Note: The type of business is selected by the retailer on the Food Stamp Program Application for Stores (FNS 252).

(26) "Third party processor" has the meaning given in 7 CFR 274.12(h)(5).

DWD 14.03 Mandatory participation. All food stamp households in Wisconsin shall participate in the EBT system. The department shall ensure access to the EBT system for special needs groups such as the elderly and disabled.

DWD 14.04 Card issuance. (1) When a food stamp group has been determined eligible for food stamps at the economic support agency, the department shall provide an EBT card which allows the food stamp group to access food stamp benefits in its EBT account. The department shall authorize the card issuer to issue the EBT cards. The card issuer shall mail the card to the food stamp group. The department shall also require economic support agencies to maintain temporary card issuance capability for emergency issuances. A statement of nondiscrimination shall be included in the mailer that is sent with the card. The department may require a special activation procedure for cards to assure that the rightful food stamp group receives the card.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(h)(6)(i)(B) as allowed by a waiver approved by the U.S. Department of Agriculture.

(2) The card shall physically resemble a financial transaction card similar to a debit card. It shall contain a primary account number (PAN) and the

address of the office where it can be returned if found or no longer in use. The card, as distinguished from the EBT system, may be used by another program for benefit or service access supported by the other program's computer system. The card is the property of the State of Wisconsin.

DWD 14.05 PIN selection. The department shall provide for PIN selection by the cardholder. The department shall allow the PIN to be changed if the cardholder requests it. The department shall provide instructions on use of the card with the PIN, including how to change the PIN if the cardholder wishes to do so.

DWD 14.06 Primary cardholder. The department shall provide one designated EBT card and PIN to the primary person or a designated payee to access the food stamp account. The primary person's or designated payee's name and signature shall be on the permanent EBT card. For residents of drug and alcohol treatment centers and group living arrangements, the department may issue the card to a person employed by the facility who is designated as the food stamp payee.

DWD 14.07 Secondary cardholder. The department shall provide a card and PIN to an individual designated by the food stamp group as an authorized buyer. The authorized buyer's name and signature shall be on the permanent EBT card. The PAN shall be different from that of the primary cardholder but shall be linked to the same food stamp account. There shall be a limit of one secondary cardholder per food stamp group.

DWD 14.08 EBT card and PIN security. (1) **RECIPIENT RESPONSIBILITY.** The recipient is responsible for protecting the security of his or her EBT card and PIN. Benefits will not be replaced if they are lost or stolen after the recipient gives the card and PIN to another person. The recipient shall report a lost or stolen card or compromised PIN to recipient customer service. When the recipient reports one of these events, the EBT vendor shall immediately disable card access to the food stamp account. The department may require that the recipient sign a card and PIN security responsibility statement prior to issuance of benefits via EBT.

(2) **RETAILER RESPONSIBILITY.** The retailer is authorized to accept the EBT card presented with a valid PIN.

DWD 14.09 Training. (1) **PROVISION OF TRAINING.** The department shall provide training on the use of the EBT system to benefit recipients; advocates for benefit recipients; appropriate county, state and tribal governing body employees; and food retailers. The department shall involve representatives of the affected groups in the design of the training.

(2) RECIPIENTS. (a) The department shall train recipients and their representatives on the use of the EBT system and EBT card prior to receipt of benefits via EBT. Recipient training shall include: information on unlimited transactions; access to account balances; transaction receipts; availability of benefits; issuance and replacement of cards and PINs; security of cards and PINs; the recipient's responsibilities for reporting lost or damaged EBT cards; accessing customer service; stale account handling; benefit availability; manual transactions; access to retail stores and dispute resolution procedures.

(b) The department shall provide an informational pamphlet to all EBT households as part of its training efforts. The department intends to make client training material available in retail stores, community centers, and other designated areas.

(c) The department shall make an informational EBT video available for viewing at EBT training sites and each economic support agency.

(d) The department shall provide one to one training in the use of EBT equipment for accessing benefits and obtaining account balance information if requested by the recipient or if any recipient is identified as having actual or potential problems using the EBT system.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(f)(10)(ii) as allowed by a waiver approved by the U.S. Department of Agriculture.

(e) The department shall provide training for bilingual households and for households with disabilities as prescribed by state and federal law. Written materials shall be provided for bilingual households as prescribed in 7 CFR 272.4(b).

(3) CLIENT ADVOCATES. The department shall make the training provided to recipients available to client advocates.

(4) FOOD RETAILERS. (a) The EBT vendor shall provide training to food retailers and their staff if the vendor has vendor-installed POS equipment. Training shall include technical instruction on the specific EBT equipment in the retailer's store, manual procedures, and customer service contact numbers. The department shall make one to one training available at retailer request.

(b) The EBT vendor shall provide information to retailers using owned or leased POS equipment on manual, customer service and settlement procedures for internal training use.

(5) **STAFF TRAINING.** The department shall provide training to state and local agency staff on topics such as training recipients on the use of the EBT system, installation, operation, and use of any administrative equipment, card issuance and PIN selection equipment, use of the vendor's administrative system, dispute resolution procedures, system security, and recipient and retailer customer services.

DWD 14.10 Retailer Owned or Leased POS Equipment. (1) **FEE PAYMENT.** During the first two years of EBT operations, the department shall pay a fee of \$.08 per food stamp purchase and merchandise return transactions, and balance inquiries conducted on POS terminals owned or leased by retailers which have signed an agreement with the EBT vendor to use such equipment. The department shall require that the vendor disburse the fee on a monthly basis through a deposit separate from the daily settlement deposits.

(2) **STUDY TO DETERMINE ACTUAL COSTS.** During the two year period, the department shall commission a study by an independent entity to determine actual EBT costs incurred by retailers and any offsetting savings from the elimination of paper food coupon handling. In signing the vendor agreement, the retailers shall affirm their intent to cooperate with the independent entity in gathering relevant cost data. The department shall elicit the assistance of representatives of the retailer community, financial institutions, state and local agencies and others in guiding the conduct of the study.

(3) **CONTINUATION OF A FEE.** Based on the study results and other relevant factors, the department shall determine by the end of the two years if a transaction fee shall continue to be paid and, if so, at what amount. The department shall publish its decision in the Wisconsin administrative register. If, for reasons directly attributable to actions of the department or its agents, the department cannot make the decision by the end of the two years, it will continue to pay the fee at the established rate until publication of the decision in the register.

DWD 14.11 Vendor Deployment of EBT-only POS Equipment. The department will afford all authorized retailers, including non-traditional retailers, the opportunity to participate in the EBT system. By federal regulation, the department may not require authorized retailers to pay costs essential to and directly attributable to EBT system operations as long as the equipment or services are provided by the EBT vendor or its agent and are utilized solely for food stamp benefit issuance.

If the vendor or agent must provide equipment to a retailer to afford the opportunity to participate in the EBT system, the following criteria shall apply:

(1) POS TERMINALS. (a) The retailer must have \$100 or more per month in food stamp redemption activity and have the capability to support operation of the terminal.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12(g)(4) as allowed by a waiver approved by the U.S. Department of Agriculture.

(b) The following POS terminal deployment formula, as specified in 7 CFR 274.12(g)(4)(ii), will be followed: (1) When food stamp redemption activity is 15% or more of total food sales, the retailer shall have POS terminals for all checkout lanes. (2) When food stamp redemption activity is less than 15% of total food sales, designated supermarkets shall have one POS terminal for every \$11,000 in monthly redemption activity up to the number of lanes per store. All other retailers shall have one POS terminal for every \$8,000 in monthly redemption activity. A retailer whose redemption activity qualifies for 3 or more EBT-only POS terminals may request an additional POS terminal for use by clients to check their food stamp balance if the terminal is located in a designated area of the store and is available for "self service" use by clients."

(2) MANUAL TRANSACTION CAPABILITY. The department shall provide manual transaction capability to retailers who do not qualify for a POS terminal. Refer to s. DWD 14.12(3).

(3) TELEPHONE LINES. The EBT vendor shall supply the necessary telephone lines for EBT system access in accordance with regulations in 7 CFR 274.12 as amended and clarified by FNS. A telephone line may be installed based on the following criteria:

(a) Any supermarket with multi-lane coverage, or

(b) \$8000 average food stamp sales per month for neighborhood grocery stores, or

(c) \$3000 average food stamp sales per month for convenience stores. The EBT vendor shall order and maintain telephone lines, if needed.

DWD 14.12 Access to benefits. **(1) ACCESS BY RECIPIENT.** The department shall provide the capability for the cardholder to access the appropriate food stamp account in retail food stores authorized by FNS within the Wisconsin EBT project area.

(2) POS ACCESS. (a) When paying for eligible food items in a store equipped with a POS terminal, the food stamp recipient's card is swiped through the terminal and the recipient enters the PIN to access the food stamp account. The system electronically verifies the PIN and the account balance, and sends

an authorization or denial back to the retailer. If authorized, the recipient's account is debited for the amount of the purchase. If the total cost of the food items exceeds the balance in the account, the transaction will be denied. The account balance will be provided on the denial receipt. The recipient may then effect a second purchase transaction utilizing the account balance for selected eligible food items.

NOTE: When the retailer is operating its own POS equipment, settlement of the transaction will occur to the bank holding the retailer's account on the next business day if received by the EBT vendor prior to their end of day cutoff. If there is a third party processor operating POS equipment, settlement of the transaction will occur to the third party processor's bank on the next business day. The third party processor is responsible for settling with the retailer according to their business agreement.

(b) Cash change will not be provided to the recipient.

(c) The EBT system shall provide a receipt to the recipient that will include the account balance.

(3) MANUAL ACCESS. (a) A manual process is required when a POS device is not available. A POS device is not available when the retailer does not have a POS device or the POS device is not useable. The retailer shall verify the recipient's account balance by calling retailer customer service. Except for situations in which the vendor's system is unavailable as provided in this subsection, if the retailer fails to verify the account balance and the recipient's account balance is insufficient to cover the amount of the transaction, the retailer is liable for the difference. The recipient shall sign the voucher and receive a copy of the voucher. If the retailer cannot access the EBT vendor's system because the EBT system is unavailable, the department shall allow purchases up to \$40 for which the EBT vendor would be liable.

(b) The amount of the purchase will be withdrawn from the recipient's account pending the vendor's receipt of the voucher from the retailer. If the retailer has not submitted the voucher within 30 days, the amount will be returned to the recipient's account. The retailer shall bear liability for the transaction if benefits are not available.

(4) ACCESS IN BORDER STATES. Under federal policy, interested retailers in states bordering Wisconsin may be provided EBT system access if the department determines that the store's participation in the EBT system is necessary for recipient access based on demonstrated household shopping patterns.

DWD 14.13 Benefit availability dates. (1) DAILY BENEFITS. The department shall make daily (initial and supplemental) food stamp benefits available to recipients via their EBT account by a specified day and time.

(2) MONTHLY BENEFITS. The department shall make monthly food stamp benefits available to recipients via their EBT accounts on a staggered cycle over the first 15 days of the month. The department shall make the daily and monthly schedule available to recipients during EBT implementation and at the time of food stamp application.

DWD 14.14 Recipient customer service. The department shall provide, through the contract with the EBT vendor or agent, ongoing assistance to recipients, on a 24 hours per day, seven days per week basis, on the recipients' use of the EBT system. Recipients shall access this customer service through the use of a toll-free number shown on the back of the EBT card and provided in training material. Recipients shall use customer service to report lost or stolen cards; obtain current account balances; obtain a transaction history for up to two months if transaction receipts are unavailable; institute card replacement and PIN change and resolve disputes regarding account transactions. The department shall assure that customer service is available in a language in addition to English as prescribed in state and federal law.

DWD 14.15 Retailer customer service. (1) The department shall provide, through the contract with the EBT vendor, ongoing assistance to retailers, on a 24 hours per day, seven days per week basis, on the retailers' use of the EBT system. Retailers shall access this customer service through the use of the toll-free number shown on the back of the EBT card, in the retailer training material, or both. The department shall assure that customer service is available in a language in addition to English as prescribed in state and federal law.

(2) FULL SERVICES. The EBT vendor shall provide the following services to retailers with vendor supplied equipment:

- (a) manual transaction processing, settlement information and assistance,
- (b) requests for repair and replacement of vendor supplied EBT-only POS terminals,
- (c) reporting, and general problem resolution; and
- (d) information in obtaining monthly reimbursement of POS supplies (i.e., printer ribbon, tape) used for the processing of food stamp transactions. Reimbursement shall be an ACH deposit paid monthly to the retailers for the amount of supplies used. Supply reimbursement shall be calculated based upon the number of EBT transactions performed by the retailer in the previous month.

(3) LIMITED SERVICES. The EBT vendor shall provide the following limited services to retailers operating their own equipment, retailers with third party processors, and retailers authorized to use manual vouchers: manual transaction approval and processing; settlement information and assistance; and requests for manual voucher supplies if not provided by a third party.

DWD 14.16 Card replacement. (1) The household shall report the loss, theft or damage of the EBT card immediately to recipient customer service. The department shall replace the EBT card within 5 business days following notice by the household to recipient customer service.

Note: This provision varies from federal food stamp regulations in 7 CFR 274.12 (f)(5)(ii) as allowed by a waiver approved by the U.S. Department of Agriculture.

(2) The department shall require ES agencies to maintain card issuance capability for emergency card replacement. The department may institute a card replacement fee not to exceed the actual cost to replace the card if the card loss rate is excessive. The fee may be subtracted from the current food stamp allotment.

DWD 14.17 PIN replacement. The department shall replace the PIN if the PIN is compromised or the recipient wishes to change the PIN. The department shall provide PIN replacement through recipient customer service or at the local economic support agency. The department shall specify the PIN replacement procedure in the training material.

DWD 14.18 Liability for lost benefits. Benefits will not be replaced if lost as a result of the loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service. Benefits will not be replaced if lost due to fraud committed, in total or in part, by the recipient. The department shall assure the replacement of benefits lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. The department also shall assure the replacement of benefits that are lost due to system errors or malfunctions. A recipient shall follow the dispute resolution process specified in s. DWD 14.22 if he or she believes that benefit replacement is warranted.

DWD 14.19 Fraudulent activity. (1) INDIVIDUAL. (a) An individual may be disqualified from the food stamp program for an IPV related to fraudulent EBT transactions. IPV is determined by an administrative disqualification hearing, court hearing, or disqualification agreement or waiver as provided in 7 CFR 273.16. An individual found guilty of an IPV is ineligible for one year for the first violation, two years for the second violation, and permanently for the third

violation or for any violation involving the use of \$500 or more worth of food stamps for purposes other than which they are intended.

(b) Individuals may be fined, imprisoned or both for food stamp offenses as specified in s. 49.127, Stats., depending on the value of the food coupons and whether it is the first, second or subsequent offense.

(c) The EBT card is a financial transaction card. Financial card crimes are described in s. 943.41, Stats.. Any person violating the provisions of this section is subject to the penalties described therein.

(2) RETAILER. A retail food store or authorized wholesale food concern may be disqualified from the food stamp program by FNS if the firm fails to handle EBT transactions in compliance with federal food stamp regulations. FNS may, in lieu of a disqualification, subject the firm to a civil money penalty. Refer to 7 CFR 278.6 for disqualification criteria and procedures.

DWD 14.20 Confidentiality. The department shall take all reasonable steps to ensure that information regarding food stamp recipients will be kept confidential by the EBT vendor and the card issuer. The department shall oversee the EBT vendor's and card issuer's performance in this area.

DWD 14.21 EBT system security. The department shall take all reasonable steps to ensure the security of card issuance and the electronic transfer of benefits. The department shall oversee the EBT vendor's and card issuer's performance in this area.

DWD 14.22 Resolution of disputes. Recipients shall contact recipient customer service regarding EBT account transaction issues and requests for benefit replacement within 60 days from the date of the original transaction being disputed. If recipient customer service is unable to resolve the dispute or error, they will refer it to state or county dispute resolution staff. The recipient may request a hearing at any time in accordance with ch. HA3. A description of the complete dispute resolution process shall be provided in the training material.

DWD 14.23 Conversion to coupons. Food stamp groups moving out of an EBT area in Wisconsin shall have their electronic food stamp benefits converted to paper coupons as stated in 7 CFR 274.12(f)(6). The actual process will be included in the training material.

DWD 14.24 Stale accounts. A stale benefit account is an account which is closed at the direction of the department because it has not been accessed by the food stamp group for three months or longer. A stale benefit account shall be made available to the food stamp group if they reapply for food stamps or

contact the local economic support agency. Refer to 7 CFR 274.12(f)(7) for stale account handling procedures.

DWD 14.25 Expungement. All food stamp benefits shall be expunged from the EBT account at the direction of the department if any of the following occur:

- (1) Benefits have not been accessed by the household for a period of one year, or
- (2) The EBT food account has been converted to food stamp coupons, or
- (3) A one-person food stamp group is denied due to death of the recipient. The food stamp group loses its rights to the expunged benefits as stated in 7 CFR 274.12(f)(7).

DWD 14.26 QUEST™ standards. The department may adopt requirements for the distribution of government benefits under the QUEST™ service mark. The requirements are provided by the National Automated Clearing House Association or NACHA. The requirements, known as the QUEST™ Operating Rules, may be adopted in whole except where the standards violate any state and federal laws and regulations or a variance is requested and granted by NACHA.

Note: A copy of the QUEST™ Operating Rules may be ordered by contacting NACHA, 13665 Dulles Technology Drive- Suite 300, Herndon, Virginia 20171. Phone 1(800) 487-9180.

DWD 14.27 Future programs. If the department decides to use the EBT system to deliver benefits for any other program it administers, the department shall designate the program by rule. The department also may enter into an agreement with any other government agency to deliver benefits paid by that agency through the use of the system.

SECTION 2. The rules contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

RULE REPORT

Department of Workforce Development

Rule No.: DWD 14

Relating to: The administration of an electronic benefit transfer system for the delivery
of food stamp benefits.

Agency contact person for substantive questions.

Name	Dick Mellinger	or	Judy Woelfel
Title	EBT Project Manager		Program and Planning Analyst
Phone Number	(608) 266-0386		(608) 266-3747

Agency contact person for internal processing.

Name	Howard Bernstein
Title	DWD Legal Counsel
Phone Number	(608) 266-9427

1. Agency statutory authority under which the agency intends to promulgate the rule(s).
§49.129(7), Stats.
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).
7 CFR 273.16, 274.3, 274.10(b), 274.12, 276.2(b)(7), 278.6 Public Law 104-193, Sec. 825 and
907
3. Citation of court decisions which are applicable to the proposed rule(s).
none
4. Description of the proposed rule(s).

The proposed rule establishes the basic structure of the state's EBT program, including mandatory recipient participation, the issuance of plastic magnetic stripe cards, the assignment of personal identification numbers (PINs), the designation of primary and secondary cardholders, training for recipients, retailers, and others on the use of the system, deployment of point of sale terminals to retailers, short term payment of a retailer transaction fee to maximize use of existing POS terminals, access to benefits, benefit availability dates, card and PIN replacement, liability for lost benefits, customer service requirements, fraudulent activity, confidentiality, system security, the resolution of disputes, conversion to coupons, stale account handling, expungement, and future programs.
5. Reason for the proposed rule(s).

§ 49.129 Stats. directs the Department to adopt administrative rule provisions for the administration of the EBT system which shall include rules relating to the liability of a recipient for lost benefits after the loss or theft of a card issued to the recipient, fraudulent activity as a basis for the suspension of a recipient, retailer or other participant from the program, confidentiality, and security measures.

PUBLIC HEARING COMMENT & AGENCY RESPONSE
 DEPARTMENT OF WORKFORCE DEVELOPMENT
 DIVISION OF ECONOMIC SUPPORT

RULE NUMBER: DWD 14
 RELATED TO: Electronic Benefit Transfer

HEARING LOCATION: Room 400x, GEF 1, Madison
 HEARING DATE: 1/21/99

Commenting in Sup. <input type="text"/> Opp. <input type="text"/>	For Info. <input checked="" type="checkbox"/>	Exh. No. <input type="text"/> 1	Presenter, Group Represented, City & State	Comments/Recommendations	Agency Response
Written comments from Jon Janowski on behalf of the Hunger Task Force			1. There are concerns regarding the extent of training for clients. Conversion to EBT requires clear direction to clients regarding where to apply for benefits and how to use the card. Users should receive hand-on training.		
1. Agree. DWD plans to have all food stamp recipients who will receive an EBT card at conversion come to a designated site for card activation, PIN selection and training. The location where clients apply for food stamp benefits will not change. The rule language was not changed.			1. Agree. DWD plans to have all food stamp recipients who will receive an EBT card at conversion come to a designated site for card activation, PIN selection and training. The location where clients apply for food stamp benefits will not change. The rule language was not changed.		

Written comments from
Jon Janowski on behalf of
the Hunger Task Force

2. Clients should have a specific location in the retail store to determine their account balance. There should be an on-site location where clients can get questions and concerns answered before they purchase food.

2. Agree. Depending on the volume of food stamp sales in stores receiving EBT-only POS devices, DWD will provide an additional device for use in a designated area for balance inquiries. DWD will pay retailers using existing POS equipment the established transaction fee for balance inquiries. The rule language was changed to reflect this. DWD will work with retailers to direct clients to on-the-premises payphones to get their account balance from the EBT vendor's customer service toll free number. The rule language was not changed for this aspect. DWD will provide retailers with EBT training pamphlets to give to clients needing assistance. The rule already reflects this.

3. Agree. DWD intends to work with the Hunger Task Force, the local FNS office and others to ensure that nontraditional retailers are accommodated in the EBT system. Added "including nontraditional retailers" in the first sentence in DWD 14.11.

Written comments from
Jon Janowski on behalf of
the Hunger Task Force

3. The EBT system should accommodate "nontraditional" food outlets such as SHARES sites and farmers' markets. They need to be fully aware of the mechanics of the manual transaction process.

Written comments from
Jon Janowski on behalf of
the Hunger Task Force

4. The state should ensure that the diversity of languages is taken into account during the creation of the informational pamphlets and videos. Promotional materials and customer service options for both clients and retailers should be sensitive to cultural dynamics.

4. Agree. DWD intends to provide EBT pamphlets for clients in English, Spanish, and other languages as needed. DWD also intends to provide the client video in other languages. DWD will also work with FNS and retailer groups to ensure that appropriate training is provided to non-English speaking retailers. The rule language was not changed.

Michael H. Skaer
U.S.D.A. Food and
Nutrition Service

ADM-8287 (R.08/96)

PUBLIC HEARING COMMENT & AGENCY RESPONSE
 DEPARTMENT OF WORKFORCE DEVELOPMENT
 DIVISION OF ECONOMIC SUPPORT

RULE NUMBER: DWD 14
 RELATED TO: Electronic Benefit Transfer

HEARING LOCATION: Madison
 HEARING DATE: 1/21/99

Commenting in Opp.	For Info.	Exh. No.	Presenter, Group Represented, City & State	Comments/Recommendations	Agency Response
<input type="checkbox"/>	<input type="checkbox"/>	2	Written comments from Brandon Scholz, President of the Wisconsin Grocers Association, Madison, WI	Fees should be paid on a monthly basis in a deposit separate from settlement for merchandise purchases.	<p>Agree. Rules have been amended to say that fees shall be paid on a monthly basis through a deposit separate from the daily settlement deposits.</p> <p>Agree. The purpose of the transaction fee is to defray costs associated with the use by retailers of existing point-of-sale (POS) terminals to handle EBT transactions and, thereby, encourage such use. In this case, retailers would use such POS terminals to transmit electronically to the EBT vendor for payment previously executed manual transactions. In doing so, the retailer would incur a fee from their third party processor for this electronic transaction. Therefore, DWD will pay the transaction fee for this electronic food purchase transaction. The rules already specify that the fee will be paid for electronic food purchase transactions.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Written comments from Brandon Scholz, President of the Wisconsin Grocers Association, Madison, WI	Manual transactions should be part of the transaction fee payment to the retailers.	

Written comments from
Brandon Scholz, President
of the Wisconsin Grocers
Association, Madison, WI

Denied Transactions should be part of the
transaction fee payment to the retailers.

Agree. These transactions constitute attempted electronic transactions which are denied by the EBT vendor for insufficient funds. Retailers using existing POS terminals will be charged a fee by their third party processors for denied transactions. Normally, a successful transaction is completed following the denial for the portion of the order covered by the existing account balance. For the same reason stated above, DWD will pay the transaction fee for these attempted electronic purchase transactions. The rules already specify that the fee will be paid for electronic food purchase transactions.

Brandon Scholz, President
of the Wisconsin Grocers
Association, Madison, WI

State should place a state terminal in stores using their own equipment for balance inquiries, as well as an extra terminal for stores using state equipment for balance inquiries.

Agree. DWD believes that retailers who do sufficient food stamp volume to qualify for three or more EBT-only terminals should, upon request, be granted an extra terminal to use for balance inquiries if it will be located in a designated area and can be used on a "self-service" basis by the client. Stores using their own equipment will receive the retailer transaction fee payment for balance inquiry transactions. The rules have been amended to institute these provisions.

Written comments from
Brandon Scholz, President
of the Wisconsin Grocers
Association, Madison, WI

Wisconsin Grocers Association would like
to have input into retailer agreement.

Agree. Wisconsin Grocers Association will be given the opportunity to provide input on the retailer agreement.

Written comments from Brandon Scholz, President of the Wisconsin Grocers Association, Madison, WI

There is concern regarding the placement of state terminal into border stores across the state line, such as in Illinois. Request is being made that Wisconsin terminals not be placed into stores across state lines, unless the bordering state has EBT only equipment within Wisconsin. Furthermore, border stores in other states should not be equipped until all Wisconsin stores are equipped.

Written comments from Brandon Scholz, President of the Wisconsin Grocers Association, Madison, WI

There is a concern that the State EBT project team will not continue with the implementation of EBT within the State.

Disagree. The FNS regulations require that client shopping patterns not be disrupted because of EBT. If Wisconsin clients are found to be routinely using their food stamp benefits within a store in a bordering state, DVD has no alternative but to provide state equipment to the border store if so requested by the store. Equipment will be provided during the EBT rollout to retailers following the signing of the retailer agreement by the respective retailer. However, DVD will work closely with its EBT contractor to assure that no store within the borders of the state is disadvantaged by having a "cross-border" store receive equipment before it is ready to accept EBT transactions. Agree. The Governor's budget bill provides position authority for the continued operation of the EBT program.

ADM-8287 (R.08/96)

PUBLIC HEARING COMMENT & AGENCY RESPONSE
 DEPARTMENT OF WORKFORCE DEVELOPMENT
 DIVISION OF ECONOMIC SUPPORT

RULE NUMBER: DWD 14
 RELATED TO: Electronic Benefit Transfer

HEARING LOCATION:
 HEARING DATE:

Commenting in Sup. Opp.	For Info.	Exh. No.	Presenter, Group Represented, City & State	Comments/Recommendations	Agency Response
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3	Written comments from Lou Dunlap, Division of Hearing and Appeals	DWD 14.18 & .08: If liability for lost benefits means the recipient cannot get FS replaced when they lose the card or give it to someone and FS are wrongfully issued, say so. Liability sounds like the recipient must repay the program for benefits wrongfully accessed.	DWD 14.18 & .08. Agree with the need for clarity. Added a sentence to the analysis section and 14.18 stating benefits will not be replaced if lost as a result of the loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service. Changed 14.08 to read "Benefits will not be replaced if they are lost or stolen after the recipient gives the card and PIN to another person." However, retained the term "liability for lost benefits" because Act 368 uses the term to cover these situations.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Written comments from Lou Dunlap, Division of Hearing and Appeals	DWD 14.12(2): The recipient will not always retain the last receipt and have it available. What are the consequences?	DWD 14.12(2). Since there is no consequence, the sentence is deleted.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Written comments from Lou Dunlap, Division of Hearing and Appeals	DWD 14.22: 1. Change reference from HSS 225 to HA 3.	DWD 14.22. 1. Agree. Reference changed.

Written comments from Lou Dunlap, Division of Hearing and Appeals

DWD 14.22. 2. The rule appears to make use of the dispute resolution process a mandatory precursor to the hearing. Has 7 CFR s. 273.15(a) been waived for the EBT program?

DWD 1422. 2. The recipient has the right to request a fair hearing at any time. DWD 14.22 is revised to delete "if the recipient is still dissatisfied after using the dispute resolution process."

Written comments from Lou Dunlap, Division of Hearing and Appeals

DWD 14.22. 3. There is no time frame governing the dispute resolution process. Does the 90 day limit in the regulations for the FS program apply?

DWD 14.22 3. The 90 day limit within which the recipient must request a fair hearing applies. The 90 days runs from the decision of customer service. DWD will provide access to information on denied replacement requests.

Written comments from Lou Dunlap, Division of Hearing and Appeals

DWD 14.22 4. Is there a promptness requirement for contact with customer service? If the recipient contacts customer service about benefits lost 6 months ago, are they timely for dispute resolution purposes?

DWD 14.22 4. Agree that there should be a promptness requirement for contact with customer service. Revised rule to read "The recipient shall contact customer service within 60 days from the date of the original transaction being disputed."

PUBLIC HEARING COMMENT & AGENCY RESPONSE
 DEPARTMENT OF WORKFORCE DEVELOPMENT
 DIVISION OF ECONOMIC SUPPORT

RULE NUMBER: DWD 14
 RELATED TO: Electronic Benefit Transfer

HEARING LOCATION:
 HEARING DATE:

Commenting in Sup. Opp.	For Info.	Exh. No.	Presenter, Group Represented, City & State	Comments/Recommendations	Agency Response
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
		4	Written comments provided by Carol W. Medaris on behalf of the Wisconsin Council on Children & Families	DWD 14.04: The section should contain time limits within which the card must be issued in order to make sure that the applicant has access to the benefit within the 30-day time limit.	Disagree- the same time limit applies to cards as it does to receipt of food stamp coupons. A separate rule is not needed.
			Written comments provided by Carol W. Medaris on behalf of the Wisconsin Council on Children & Families	DWD 14.09. For retailers who do not have POS equipment, there should be a requirement to develop and widely distribute material such as how to access retailer customer service, the retailer's potential liability, and what to do if the EBT system is unavailable.	DWD 14.09. The EBT vendor will provide training support in the use of manual vouchers particularly to nontraditional retailers without POS equipment. The rule was not revised.

Written comments provided by Carol W. Medaris on behalf of the Wisconsin Council on Children & Families

DWD 14.16 & 14.18. Does the department intend to provide a card within 5 business days as well as the benefits remaining in the participants account?

When the card is replaced, the recipient should be provided with notice of the amount of benefits remaining in the account.

Include a provision for dealing with times when a person is unable to access the recipient customer service line to report a lost or stolen card.

Does the person have to go through the dispute resolution process every time that benefits are lost?

Yes. The same time limit for benefit replacement of food stamp coupons applies to EBT benefits. A separate rule is not needed.

DWD will not provide a notice of the remaining benefits in the account. The recipient can call customer service 24 hours per day, 7 days per week to get balance information. They also can use POS terminals in stores to obtain balance information.

The contract with the vendor requires that the customer service line be available 24 hours per day, 7 days per week. The recipient may also contact the local office to report a lost or stolen card. These points will be emphasized in the client training module. No rule change was made.

4.22 was revised to indicate that: "If recipient customer service is unable to resolve the dispute or error, they will refer it to state or county dispute resolution staff. It does not preclude the client from requesting a fair hearing at any time."