

LIST IN FORMATION:

AARP

Bethex FCU

Brennan Center for Justice

Community Food  
Resource Center

Community Service  
Society

Credit Where Credit Is  
Due

Empower Welfare Rights

Federation of Protestant  
Welfare Agencies, Inc.

Greater Upstate Law  
Project

Hunger Action Network of  
NYS

Institute for the Puerto  
Rican / Hispanic Elderly

International Center for  
the Disabled

JPAC for Older Adults

Just Food

Legal Aid Society

Lower East Side People's  
Federal Credit Union

Make the Road by Walking

Neighborhood Economic  
Development Advocacy  
Project (NEDAP)

New York Immigration  
Coalition

New York Lawyers for the  
Public Interest

New York Public Interest  
Research Group

North Brooklyn  
WE CAN

Oceanhill Brownsville  
Tenants Association

Office of the Manhattan  
Borough President

Puerto Rican Legal  
Defense and Education  
Fund

Rural Law Center of New  
York, Inc.

SENSES

UJA – Federation of  
Jewish Philanthropies of  
New York, Inc.

Urban Justice Center

# EBT WORKING GROUP

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June 11, 2003

BY E-MAIL AND REGULAR MAIL

Ms. Pamela Paulik  
Assistant Director for Information Technology  
Department of Family Assistance  
New York State Office of Temporary and Disability Assistance  
67 North Pearl Street  
Albany, NY 12243

Email: Pamela.Paulik@DFA.State.NY.US

Dear Ms. Paulik:

The undersigned submit these comments on behalf of the New York EBT Working Group, a coalition of community-based organizations, seniors groups, legal services offices, elected officials, advocates for people with disabilities, and welfare rights and economic justice advocates concerned with proper implementation of Electronic Benefits Transfer (EBT). We believe that EBT can offer advantages for participants, but only if EBT users are guaranteed safe, free, convenient access to their government benefits and the same consumer protections that all others enjoy in the transferring of electronic funds.

As you know, New York State's EBT program affects hundreds of thousands of New Yorkers. The development of a new RFP and awarding of the EBT contract in New York present a critical opportunity for the state to remedy problems in the system. Since its implementation in New York, the EBT system has raised serious concerns regarding adequate delivery, access, and accountability. Failure to provide adequate free cash access to public assistance recipients has presented civil rights implications and permitted diversion of millions of dollars in TANF funds to check-cashers, POS merchants, and ATM owners. This situation not only leaves families with less money to buy food and other necessities, but it is entirely avoidable. We urge OTDA to rectify the systemic flaws of the current EBT program by devising an intelligent and sound RFP and contract – there is no reason not to get it right the second time around.

Given the significance of the EBT for so many people in New York, and the value of hearing directly from people who must use the EBT system, we urge OTDA to hold public hearings on the EBT system. Public hearings will provide a useful venue for EBT users to make recommendations for the system going forward, based on problems they have encountered.

Members of the EBT Working Group learned about the public comment period only two weeks ago. These comments are therefore preliminary, and include minimal provisions that should be in OTDA's forthcoming RFP. Members of the Working Group expect to issue a full report on the state of the EBT system in New York City later this year.

Public benefits recipients do not have adequate access to their cash benefits through Electronic Benefit Transfer (EBT), under the current contract. Specifically lacking are non-surcharging ATMs at which they may withdraw cash benefits.

We urge the New York State Office of Temporary and Disability Assistance to include the following threshold requirements in its upcoming RFP, and ensure that the contractor providing EBT services to New York State:

- 1. Eliminate ATM fees for EBT users.**
- 2. Maintain and make available clear, accurate, and current lists of store and cash access point locations.**
- 3. Provide a direct deposit option.**
- 4. Make all written and other information available in multiple languages (the California EBT RFP reportedly required provision of information in 10 languages).**
- 5. Provide homebound and disabled EBT users with alternate PINs for assistants and caretakers.**
- 6. Afford basic and essential consumer protections to EBT users, including loss liability protection as extended to all other electronic fund transfer users under Regulation E.**
- 7. Provide replacement cards within 5 days of reported loss.**
- 8. Improve customer service hot lines.**
- 9. Provide meaningful disclosures to users regarding their "accounts."**

**1. Eliminate ATM Fees for EBT Users**

All cash access surcharges at ATM machines and POS devices should be eliminated. Under the current contract, EBT users are not charged a fee by Citicorp EFS for the first four EBT transactions in a given month, but too many pay surcharges typically ranging from \$1.00 to \$2.50 for each cash withdrawal.

Both New Jersey and Mississippi prohibit surcharging for EBT transactions. In New Jersey, there is no surcharging for EBT transactions permitted under the state's welfare reform legislation. In Mississippi, if an ATM owner, bank, or credit union does not agree to waive fees for EBT users they may not participate in the state's EBT system.

**2. Maintain and Make Available Clear, Accurate, and Current Lists of Store and Cash Access Point Locations**

The new contractor must ensure that recipients have up-to-date and accurate information regarding stores and cash access points that participate in the EBT systems. In recent weeks, NEDAP has requested the lists of non-surcharging ATMs from several sources, including

OTDA, and has been unable to get an accurate list of the non-surcharging ATMs in New York City. All lists provided by OTDA, though purportedly of "Non-Surcharging ATMs," in fact included Full Service Point of Sale (FSPOS) sites, surcharging ATMs, and places that did not accept EBT. FSPOS sites were shown to be a seriously flawed means of delivering public assistance benefits by a 2001 investigation by the New York State Attorney General's Office. EBT users must be provided with a current list of all places they may use their EBT cards, with clear distinctions between the FSPOS sites and ATM sites. Several other sites listed afford free cash access but are not universally accessible to EBT users (e.g., NYU Coles gym). Perhaps more pressing, surcharging or inaccessible sites should not appear on the lists of non-surcharging sites.

Given the difficulty groups have had obtaining an accurate list of non-surcharging EBT cash access machines, it seems unlikely that public assistance recipients have clear and accurate information about where they can withdraw their cash assistance benefits without incurring a fee. Without accurate information about no-fee ATMs, EBT users have no choice but to use ATMs that charge them \$1.00 - \$2.50 per transaction. This problem would be avoided if surcharges on EBT transactions were prohibited. In any event, EBT has effectively, and ignominiously, shifted delivery costs onto public benefits recipients.

**3. Provide a Direct Deposit Option**

As of June 2001, 19 states using the EBT system allow EBT users to have their cash assistance benefits directly deposited into a bank or credit union account. At that date, 7 more states were planning to add a direct deposit option. This provides EBT users with consumer protections afforded to other electronic funds transfer consumers. It fosters a connection between the public assistance recipient and a financial institution. Bringing public assistance recipients into the banking mainstream was one of the stated goals of the EBT system; providing a direct deposit option will finally fulfill this goal.

**4. Make all written and other EBT information available to EBT users in multiple languages.** The current program requires information only in English and Spanish. Information is needed in many other languages. (The California EBT contract reportedly required provision of information in at least 10 languages.)

**5. Provide Homebound and Disabled EBT Users with Alternate PINs for Assistants and Caretakers**

All TANF recipients must now use the EBT system. There are no exemptions for people who are homebound, or people with disabilities. The new contract should address the needs of disabled and homebound elderly to limit benefit access by their caregivers. The creation of alternate and limited PINs will make it possible for caregivers to access EBT users' benefits and help them with their food shopping without the concomitant risk of total benefit theft. Under the current EBT system, EBT users that have someone else shop or make purchases for them have no choice but to give that caretaker their card and PIN number, running the risk of losing their entire benefits to theft.

**6. Afford Basic and Essential Consumer Protections to EBT Users**

EBT users are now the only group of consumers exempted from Regulation E, a federal regulation that protects electronic financial transactions. The new contract should limit the

liability of recipients resulting from theft or loss of benefits to \$50, as afforded to all other users of electronic fund transfers.

**7. Provide Replacement Cards Within 5 Days of Reported Loss**

EBT users must be protected from the financial hardships that could be caused by significant delays in the provision of replacement cards by mandating a 2-5 day time frame for the replacement of EBT cards.

**8. Improve Customer Service Hot Lines**

The new contractor must be required to increase the effectiveness and accountability of the present help line. In particular, operators on the EBT ATM Locator Helpline must be instructed to list *all* no-fee EBT ATMs in the specified geography. On recent calls to the helpline, advocates were given only one or two sites rather than the total list of all sites in the zip codes requested.

**9. Provide Meaningful Disclosures**

The new contractor must provide EBT users with timely and current access to complete information about their accounts and about the EBT system, including information on:

- **Account activity**, including recent transactions, account balance.
- **Error resolution**, including the procedures and time limits for error investigation and correction.

Thank you for the opportunity to comment on New York's EBT program. Please do not hesitate to contact us if you have questions or would like to discuss our recommendations for improving the EBT system by designing a sound RFP and contract going forward.

Sincerely,

**Bethex Federal Credit Union  
Community Food Resource Center  
Credit Where Credit Is Due  
Legal Aid Society  
Make the Road by Walking  
Neighborhood Economic Development Advocacy Project (NEDAP)  
New York Public Interest Research Group (NYPIRG)  
Oceanhill Brownsville Tenants Association  
Puerto Rican Legal Defense and Education Fund  
South Brooklyn Legal Services**

cc: OTDA Commissioner Brian Wing  
New York State Attorney General Eliot Spitzer  
New York State Banking Department Superintendent Diana Taylor  
New York State Senator Liz Krueger  
NYC Council Member Bill DeBlasio  
New York EBT Working Group  
Jordan Rau, Newsday  
Robert Worth, New York Times