



## State of New Jersey

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*Assistant Commissioner*

The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **08470-24 J.M.**

AGENCY DKT. NO. **C338204007 (ESSEX COUNTY DIVISION OF WELFARE)**

Petitioner challenges the denial of the replacement of electronically stolen Supplemental Nutrition Assistance Program ("SNAP") and Work First New Jersey ("WFNJ") benefits she alleges were stolen from her Electronic Benefits Transfer ("EBT") card. Respondent Agency asserts that Petitioner's SNAP and WFNJ benefits were not stolen by skimming, scamming, or other electronic theft. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 17, 2024, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony and admitted documents. On October 22, 2024, the ALJ conducted a telephone conference to clarify documents referenced at the hearing and the record then closed on that date. On November 12, 2024, the ALJ issued an Initial Decision, affirming the Agency's determinations.

At the outset, it should be noted that there is no federal or State regulation which allows the Agency, or the State, to restore SNAP benefits that are lost due to skimming or cloning of an EBT card. N.J.A.C. 10:87-9.8(a) specifically states that SNAP benefits shall not be replaced once they are posted to a household's Families First account. Similarly, N.J.A.C. 10:88-5.1, which governs the Families First Programs and the replacement of benefits, dictates that SNAP benefits shall not be replaced once they are posted to a household's Families First account.

However, due to the prevalence of the issue of electronic theft and skimming of benefits, Congress addressed this ongoing problem when it enacted the Consolidated Appropriations Act, 2023. In December 2022, as part of the Consolidated Appropriations Act, 2023 ("the Act"), Congress enacted provisions intended to prevent SNAP EBT benefit fraud within the Consolidated Appropriations Act, 2023, H.R. 2617, 117th Cong. § 501(b) (2023) and, thereafter, the Consolidated Appropriations and Extensions Act, 2025, P.L. 118-83. Section 501(b) of the 2023 Act directs the United States Department of Agriculture ("USDA") to require States "to replace benefits that are determined by the State agency to have been stolen through card skimming, card cloning, or similar fraudulent methods."

As a result of this new law, states became able to replace benefits, within certain parameters, stolen by means of electronic theft or skimming, which occurred between October 1, 2022, and September 30, 2024. The timeframe for replacement of benefits has now been extended to December 20, 2024. The allowable replacement amount is the lesser of the total benefits stolen or two allotments (two months of benefits). *Id.* at sec. 501(b)(2)(A). Further, under the Act, states were required to develop and submit plans to the Food and Nutrition Service ("FNS") for the replacement of electronically stolen SNAP benefits. *Id.* at sec. 501(b)(1).

New Jersey's State Plan for implementing the new law for replacement of electronically stolen SNAP benefits was approved by FNS on May 23, 2023, and went into effect on July 1, 2023. Additionally, in late June 2023, the New Jersey Legislature appropriated funds for the replacement of State SNAP supplements stolen through unauthorized transactions



as a result of some form of electronic theft or fraud. See Fiscal Year ("FY") Appropriations Act, P.L. 2023, c.74, FY Appropriations Act, P.L. 2024, c. 22. As such, SNAP benefits recipients may submit a claim for the replacement of lost benefits, alleged to have occurred by means of electronic theft or fraud, within the designated time frames. See generally DFD Instruction ("DFDI") No. 24-10-02. For benefits stolen after July 1, 2023, a cardholder has "thirty-days from the date they discovered the theft to submit a request (for replacement)." Ibid.

It is within the above stated law that the facts of this case must be examined. Here, Petitioner went, in person, to the Agency on July 23, 2023, to request a new EBT card and to complete a form stating that her benefits had been stolen via skimming/cloning of her EBT card. See Initial Decision at 2. At that time, Petitioner did not identify or dispute any of the purchases made using her EBT card. Ibid. Petitioner reported that "transactions" within the EBT card state were stolen, however, the transactions identified by Petitioner were found to be deposits in the "queue" to be deposited for benefits due to Petitioner during August 2023. Ibid. The Agency concluded that Petitioner was reporting theft of benefits which were not yet available for her use. Ibid.; see also Exhibit R-1. On April 15, 2024, Petitioner filed a form stating that her benefits had been skimmed/cloned and listed the same two transactions previously claimed as skimming/cloning during July 2023. Ibid. Petitioner additionally identified a transaction from March 23, 2024, which was found to be a benefits deposit in the queue of her April 2024 benefits. Ibid. The Agency did investigate the claims made by Petitioner and concluded there was no skimming pattern to the purchases made using the EBT card. Ibid. Petitioner was unable to identify any fraudulent transactions during the period of time covering the claims of stolen benefits. See Initial Decision at 2-3.

The ALJ in this matter concluded that, while Petitioner believed her benefits were electronically stolen, the Agency had conducted an investigation and it was determined that no benefits had been electronically stolen from Petitioner. See Initial Decision at 3. I agree.

No Exceptions to the Initial Decision were filed.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the Initial Decision in this matter, and following an independent evaluation of the record, I concur with the ALJ's decision, and hereby adopt the Findings of Fact and Conclusion of Law in this matter.

Accordingly, based upon the foregoing, I hereby ADOPT the Initial Decision in this matter and AFFIRM the Agency's determinations.

Officially approved final version. November 26, 2024

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Natasha Johnson  
Assistant Commissioner

