

Department of Human Services

Adoption of Chapter 17-686.1

Hawaii Administrative Rules

September 13, 2024

1. Chapter 17-686.1, Hawaii Administrative Rules, entitled "Summer Electronic Benefits Transfer (EBT) Program" is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 686.1

SUMMER ELECTRONIC BENEFITS TRANSFER (EBT) PROGRAM

Subchapter 1 General Provisions

686.1-1

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Historical Note: Chapter 17-686.1 is based substantially on chapter 17-686, Summer Electronic Benefits Transfer (EBT) Program. [Eff 06/10/24]

SUBCHAPTER 1

GENERAL PROVISIONS

**§17-686.1-1 Purpose.** The purpose of this chapter is to establish the rules governing the administration and implementation of the Summer EBT benefits for children who lose access to free and reduced price meals through the National School Lunch Program (NSLP) and School Breakfast Program (SBP) during the summer when school is not in session. [Eff \_\_\_\_\_] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502, 7 C.F.R. Part 292) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-2 Definitions.** For the purposes of this chapter:

"Authorized representative" means a non-household member designated in writing by the applicant to act on behalf of a household in applying for program benefits.

"Benefit" means Summer EBT payment that is established annually by the United States Department of Agriculture, Food Nutrition Services, and will be effective January 1 through December 31 of each year.

"Categorically eligible" means considered income eligible for Summer EBT, as applicable, based on documentation that the child:

- (1) Is a member of a household and one or more children in that household are receiving assistance under SNAP, TANF, or another means tested program as approved by the Food Nutrition Services;
- (2) Is in foster custody;
- (3) Is considered to be migrant, homeless, or a runaway as defined in 7 C.F.R. §245.2;

- (4) Participates in the Head Start program; or
- (5) Is determined eligible for a free or reduced priced meal through the NSLP/SBP.

"Current income" means income received during the month prior to an application for Summer EBT benefits. If such income does not accurately reflect the household's annual income, income must be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

"Department" or "DHS" means the department of human services, State of Hawaii.

"Department's designee" means a service provider contracted by the department to deliver the services described in this chapter.

"Direct verification" means the process of verifying household income or categorical eligibility by matching against data sources or other records without the need to contact households for documentation.

"Electronic benefit transfer" or "EBT" means the computer-based system that processes and distributes authorized Summer EBT benefits to qualified households from a central computer system through an automated teller machine or point-of-sale device.

"Eligible child" means a child who meets the eligibility requirements to receive Summer EBT benefits.

"Eligible household" means a household that includes at least one eligible child.

"Enrolled students" means students who are enrolled in and attending schools participating in the NSLP/SBP and who have access to a meal service (breakfast or lunch) on a regular basis.

"Expungement" means the removal of Summer EBT benefits from the EBT account to which they were issued typically by an EBT processor on behalf of a Summer EBT agency.

"Fraud" means willfully providing a false statement or misrepresentation of a fact or concealing or withholding facts which results in the receipt of a

Summer EBT benefit that would not otherwise result without the false statement or withheld facts, or any action by an individual or household unit for the purpose of receiving a Summer EBT benefit.

"Household" or "Household unit" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

"Income Eligibility Guidelines" means the household-size and income standards prescribed annually on July 1 by the United States Department of Agriculture for determining income eligibility for reduced price meals under the National School Lunch Program and the School Breakfast Program.

"Instructional year" means the period from July 1 of the prior year through one day prior to the summer operational period.

"NSLP/SBP" means the National School Lunch Program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and/or the School Breakfast Program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"Period of eligibility" means the period of time from the first day of instructional year immediately preceding the summer operational period through the last day of the summer operational period.

"School-aged child" means a child who will have arrived at the age of at least five years on or before July 31 of the school year, and who will not have arrived at the age of eighteen years, by January 1 of any school year.

"Special provision school" means, for the purposes of Summer EBT, those schools which do not collect NSLP/SBP applications annually as described in section 11(a)(1)(B)-(F) of the Richard B. Russell National School Lunch Act (NSLA).

"Supplemental Nutrition Assistance Program" or "SNAP" means the program that provides food assistance to qualifying low-income and needy households.

"Summer EBT application" means an application submitted to a Summer EBT agency or an NSLP/SBP

participating school by a household for a child or children who are enrolled at an NSLP/SBP-participating school for Summer EBT benefits. Eligibility determinations based on Summer EBT applications may not be used to confer eligibility for the NSLP/SBP.

"Summer operational period" means the benefit period that generally reflects the period between the end of classes during the current school year and the start of classes for the next school year.

"Temporary assistance for needy families" or "TANF" means the federally funded financial assistance benefits provided to qualified families with dependent children under the age of eighteen years.

"Temporary assistance for other needy families" or "TAONF" means the state-funded financial assistance benefits provided to qualified families with dependent children under the age of eighteen years where there is at least one household member that is not a U.S. citizen.

"Verification" means confirmation of eligibility for the Summer EBT Program when a child's eligibility is established through a Summer EBT application. Verification includes confirmation of income eligibility and may also include confirmation of any other information required in the application. Direct verification must be attempted prior to contacting the household. If such efforts are unsuccessful, verification may be accomplished by examining information provided by the household such as wage stubs, or by other means. If a SNAP or TANF case number or other identifier is provided for a child, verification for such child must only include confirmation that the child is a member of a household receiving SNAP or TANF benefits.

"Verification for cause" means verification of questionable applications, on a case-by-case basis, such as an instance when the Summer EBT agency is made aware of conflicting or inconsistent information than what was provided on the application. [Eff

] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-3 Eligibility.** (a) Children eligible for Summer EBT include those who, at any time during the period of eligibility, are:

- (1) School-aged and categorically eligible;
- (2) Enrolled in an NSLP/SBP-participating school, except for special provision schools, and:
  - (A) Are categorically eligible;
  - (B) Meet the requirements to receive free or reduced price meals as determined through an NSLP/SBP application;
  - (C) Otherwise are determined eligible to receive a free or reduced price meal; or
  - (D) Are determined eligible through a Summer EBT application; or
- (3) Enrolled in a special provision school, and:
  - (A) Are categorically eligible;
  - (B) Otherwise meet the requirements to receive free or reduced price meals as determined through an NSLP/SBP application; or
  - (C) Are determined eligible through a Summer EBT application.

(b) The department or department's designee shall enroll categorically eligible children through streamlined certification and shall not require further confirmation of school enrollment.

(c) For children who are enrolled in NSLP/SBP participating schools and who do not already have an individual eligibility determination, the children's household may submit an application to enroll in the Summer EBT as provided by the department. The children in that household must be approved for Summer EBT benefits:

- (1) When a household unit submits a complete application in compliance with 17-686.1-4, and

- (2) The household's total current income is at or below income standards for the applicable household size specified in the Income Eligibility Guidelines. [Eff \_\_\_\_\_] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502, 7 C.F.R. Part 292) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-4 Application processing.** (a) The department or department's designee shall accept applications during the period of eligibility. Households must submit an application for Summer EBT benefits by the last day of the summer operational period in order to receive benefits for that summer. Applications that are submitted after the last day of the summer operational period shall be retained by the department to establish eligibility for the following summer operational period.

(b) The department or department's designee shall enroll eligible children in Summer EBT if it is determined that they meet the requirements to receive free or reduced price meals as determined through a complete Summer EBT application. A Summer EBT application is considered complete if the following information is provided:

- (1) Names of children and other household members;
- (2) Amount, source, and frequency of income for each household member; and
- (3) Signature of an adult household member, including electronic signatures.

(c) Confirmation of enrollment in an NSLP/SBP-participating school during the immediately preceding instructional year is required for children who apply by a Summer EBT application.

(d) Children who are not in an NSLP/SBP-participating school in the immediately preceding instructional year cannot be certified as eligible,



and therefore are ineligible for Summer EBT through submission of an application for Summer EBT benefits.

(e) The department or department's designee shall not require income documentation at the time of application.

(f) Complete applications shall be disposed of within fifteen business days of the date the application is deemed completed by the department or department's designee.

(g) The department or department's designee shall follow-up with a household that submits an incomplete application within ten business days of receipt of the application. Applications may be denied the following business day if the application remains incomplete. [Eff \_\_\_\_\_] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502, 7 C.F.R. Part 292) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-5 Disposition notification for Summer EBT payments.** (a) The department or department's designee shall notify (or place notification in the mail) eligible households of a child's approved status within 15 business days of receipt of a complete application.

(b) Households approved for benefits based on streamlined certification shall be notified that their children are eligible for Summer EBT and that no application is required. The notice of approval must also inform the household how to opt-out if they do not want their children to receive Summer EBT benefits.

(c) A notice of approval shall include a statement communicating that households that are erroneously issued duplicate benefits from more than one State should only use benefits from the State where their child(ren) completed the instructional year immediately preceding the summer operational period.

(d) Households that notify the department or department's designee that they do not want Summer EBT benefits for their child shall not be issued benefits, or shall have their benefits expunged as soon as possible if already issued.

(1) Any notification received from the household declining benefits shall be documented and maintained on file to substantiate the change in benefits.

(2) Subsection (f) shall not be applicable in this instance.

(e) Household's that are denied Summer EBT benefits shall be provided notification that includes:

(1) The specific reason or reasons for the denial of benefits, which include, but are not limited to:

(A) Household is already receiving the Summer EBT benefit for the summer operational period.

(B) Household income in excess of Income Eligibility Guidelines;

(C) Child is not a school-aged child;

(D) Child did not attend an NSLP/SBP participating school in the applying period of eligibility and is not categorically eligible; or

(E) Submission of an incomplete application;

(2) Notification of the right to appeal;

(3) Instructions on how to appeal; and

(4) A statement reminding households that they may reapply for benefits at any time during the instructional year or summer operational period.

(f) No less than thirty days before benefit expungement is scheduled to begin, the department shall provide notice to the household of the expungement date and amount that is scheduled for expungement.

(1) Summer EBT agencies shall expunge Summer EBT benefits 122 calendar days after their issuance.



- (1) The department or department's designee shall verify an application for cause, on a case-by-case basis, such as in an instance when the department or department's designee is aware of conflicting or inconsistent information from what was provided on the application.
  - (A) The department or department's designee may verify an application for cause at any time during the instructional year or summer operational period, but verification must be completed within thirty days of receipt of the application.
  - (B) Applications verified for cause are not considered part of the three per cent sample size described in paragraph (a)(2) of this section.
  - (C) Applications do not need to be selected for verification for cause during the initial application processing. The department or department's designee may become aware of a questionable application after the initial certification was completed and benefits were issued. In this case, the department or department's designee shall verify the application for cause at the time they learn of the questionable or conflicting information.
  - (D) All verification procedures in this section must be followed for applications selected for verification for cause in the same manner as an application randomly selected as part of the sample described in (a)(2)(A) of this section.
- (2) The department or department's designee shall verify eligibility of children in a sample of household Summer EBT applications

approved for benefits for the summer operational period.

(A) The sample size shall equal three per cent of all applications approved by the department or department's designee from the start of the instructional year through April 1 of the school year immediately preceding the summer operational period, selected randomly from all applications.

(B) The department or department's designee may choose to sample at any frequency prior to April 1, but may not sample any applications after April 1, and the total applications sampled shall not exceed three per cent of the total number of approved applications as of April 1.

(b) Applications received after April 1 are still subject to verification for cause on a case-by-case basis.

(c) The department or department's designee shall conduct direct verification activities with the programs eligible for use in streamlined certification where available.

(1) Direct verification must be conducted prior to contacting the household for documentation.

(2) For the purposes of direct verification, documentation may indicate participation in an applicable program or income at any point during the period of eligibility. The information provided only needs to indicate eligibility at a single point in time during the period of eligibility, and not that the child was eligible at the time of application or verification.

(d) Verification is not required of households if all children in the household are determined eligible based on the results from direct verifications.

(e) Households selected for verification shall be notified in writing that their applications were selected for verification. The notice shall include a telephone number to contact for assistance and shall inform the household on the following:

- (1) They are required to submit the requested information to verify eligibility for Summer EBT benefits, by the due date determined by the department.
- (2) They may, instead, submit proof that the children receive assistance under SNAP or TANF; or
- (3) They may, instead, request that the department or department's designee contact the appropriate officials to confirm that their children are foster children, homeless, migrant, or runaway.
- (4) Failure to cooperate with verification efforts will result in the termination or expungement of benefits.

(f) For the purposes of this section, sources of information for verification may include, but are not limited to, written evidence, individuals outside of the child's household who can verify the child's circumstances, and systems of records as follows:

- (1) Written evidence must be used as the primary source of information for verification. Written evidence includes written confirmation of a household's circumstances, such as wage stubs, award letters, and letters from employers. Whenever written evidence is insufficient to confirm income information on the application or current eligibility, the department or department's designee may require confirmation from a person outside of the child's household, or accept a statement from an adult member of the child's household.
- (2) Verbal confirmations of a household's circumstances by a person outside of the household may be made in person or by phone.

The verifying department or department's designee official may select a person to contact if the household fails to designate one or designates one which is unacceptable to the verifying department or department's designee official. If the verifying department or department's designee official designates a person, contact shall not be made without providing prior written or oral notice to the household. At the time of this notice, the household must be informed that it may consent to the contact or provide acceptable documentation in another form. If the household refuses to choose one of these options, eligibility shall be terminated in accordance with the normal procedures for failure to cooperate with verification efforts. Individuals outside of the child's household who can verify the child's circumstances could include, but are not limited to:

- (A) Employers;
  - (B) Social service agencies;
  - (C) School officials; or
  - (D) Migrant agencies.
- (3) Agency records to which the department or department's designee may have access are not considered to be the same as a person outside of the child's household who can verify their circumstances. Information concerning income, household size, SNAP or TANF eligibility, maintained by other government agencies to which the verifying agency can legally gain access, must be used to confirm a household's income, size, or receipt of benefits, as applicable. Information may also be obtained from individuals or agencies serving categorically eligible children, including foster, homeless, migrant, or runaway children.

(4) Households which dispute the validity of income information acquired through an individual outside of the child's household or a system of records must be given the opportunity to provide other documentation.

(g) Households selected and notified of their selection for verification must provide documentation of income. The documentation must indicate the source, amount, and frequency of all household income, and may indicate eligibility at any point during the period of eligibility. The information provided only needs to indicate eligibility for participation in the program at a single point in time during the period of eligibility, not that the child was certified for that program's benefits at the time of application or verification.

(h) If a household is selected for verification, and the household's application indicates zero income, the department or department's designee shall request an explanation of how living expenses are met and may request additional written documentation or collateral contacts. The collateral contact may be asked to document the duration and type of assistance that is provided to the household.

(i) If a household refuses to cooperate with efforts to verify eligibility for Summer EBT benefits, then they shall be terminated from the program and benefits issued, if any, shall be expunged.

(j) The department or department's designee must provide a telephone number to households selected for verification to call free of charge to obtain information about the verification process. The telephone number must be prominently displayed on the letter to households selected for verification.

(k) The department or department's designee must make at least two attempts, at least one week apart, to contact any household that does not respond to a verification request. The attempt may be through a telephone call, email, or mail, and must be documented. Non-response to the initial request for verification includes no response, and incomplete or



ambiguous responses that do not permit the department to resolve the children's eligibility for Summer EBT benefits.

(1) The department or department's designee must complete the following activities if there is an eligibility change as a result of verification:

- (1) Make appropriate modifications to the initial eligibility determinations.
- (2) Notify the household of any change in eligibility as a result of verification. The notice must advise the household of:
  - (A) The change;
  - (B) The reasons for the change;
  - (C) Notification of the right to appeal and when the appeal must be filed;
  - (D) Instructions on how to appeal; and
  - (E) The right to reapply at any time during the instructional year or summer operational period.

(3) Properly document and retain on file at the department or department's designee the reasons for ineligibility. [Eff  
 ] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502, 7 C.F.R. Part 292) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-8 Administrative hearing request.** (a)

If a household wishes to appeal an application that was denied, or an action that resulted in termination from the program, the household unit may orally request or submit a written request for a hearing, within ninety days after the end of the summer operational period, and shall at a minimum contain the following:

- (1) Name of person requesting the appeal;
- (2) Name of the child regarding the Summer EBT benefit;

- (3) Reason for the disagreement with the decision and what needs to be considered; and
  - (4) Any supporting documentation or evidence to support the appeal and reconsideration.
- (b) Upon receipt of the request for a hearing to appeal the decision, a date for a hearing shall be scheduled and communicated in writing to the requesting household within fifteen days from the date the request is received by the department or department's designee, and the date of the hearing shall be no later than forty-five days from the date a request is received by the department or department's designee, except when the hearing is continued or the record is held open. The time limit shall be extended for any period of continuance or the record being held open.
- (c) The hearing shall be conducted in accordance with chapter 17-602.1, when applicable, to the extent that it is consistent with this section.
- (d) A household may appeal an adverse action taken against the household by the department with respect to:
- (1) An application the household submitted for Summer EBT benefits;
  - (2) A streamlined certification for Summer EBT benefits;
  - (3) A verification process or procedure; or
  - (4) An action that resulted in termination from the program.
- (e) An administrative hearing request shall be denied when:
- (1) The household unit disputes the amount of Summer EBT benefits provided by the department and the household unit received the maximum amount of Summer EBT benefits authorized by the Food Nutrition Service; or
  - (2) The request for hearing is received after the ninetieth day after the end of the summer operational period.
- (f) At the conclusion of the hearing, the hearing officer shall advise that a decision in

writing shall be transmitted no later than twenty days from the date of the hearing to all the parties; provided that the time limit shall be extended for any period of continuance or the record being held open.

(g) Aid paid pending an administrative hearing decision, described in chapter 17-602.1, shall not apply to a denial or termination of Summer EBT payments as provided in this chapter.

(h) The Summer EBT payment shall not be issued until the administrative hearing process has concluded.

(i) Household units shall be informed in writing:

(1) When an adverse action is taken by the department at the time of:

- (A) Denial of application;
- (B) Denial or termination due to verification or failure to cooperate with verification; or
- (C) Termination of payments when not implemented pursuant to section 17-686.1-10;

(2) And which shall include the following:

- (A) Right to an administrative hearing; and
- (B) Method for obtaining a hearing.

(j) The department shall provide a household with back-benefits for Summer EBT if:

(1) The administrative hearing decision determines that:

- (A) The department or department's designee erroneously failed to issue such benefits in the correct amount to an eligible household; or
- (B) An administrative disqualification for intentional program violation was subsequently reversed; or

- (2) There is a statement elsewhere in this chapter specifically stating that the household is entitled to restoration of lost benefits. [Eff \_\_\_\_\_ ] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502, 7 C.F.R. Part 292) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

**§17-686.1-9 Overpayment and fraud.** (a) An overpayment shall be created when:

- (1) There is an error in determining the household unit's eligibility for a Summer EBT payment that results in an overpayment; or

- (2) There is an error in calculating the Summer EBT payment amount.

(b) A household unit subject to recovery of an overpayment shall be provided adequate notice by the department including:

- (1) The reasons, dates, and the amount of the alleged overpayment; and

- (2) The proposed method by which the overpayment shall be recovered.

(c) The available methods that the household unit shall repay the department include:

- (1) Cash payment made in person at the department's fiscal management collections office; or

- (2) Cashier's check or money order, payable to the director of finance, State of Hawaii.

(d) Repayment must be made in full or upon signing of a repayment agreement with no less than ten per cent of the total overpayment amount paid monthly until the entire overpayment amount is recovered.

(e) If the household unit for whom a collection has been initiated fails to make a payment for any month in the calendar tax year, the department may refer debts exceeding twenty-five dollars to the comptroller of the State for tax setoff as specified

in chapter 17-606, or any other appropriate action as authorized by law.

(f) Fraud committed by the household unit or an individual household member shall be punishable under applicable state and federal laws. Chapter 17-604.1 shall apply when an investigation of suspected fraud is required. [Eff \_\_\_\_\_] (Auth: HRS §§91-3, 91-4, 346-4.5, 346-14, 346-44, 346-155, and SLH 2024, Act 155; P.L. 117-328, Title IV, §502) (Imp: HRS §§346-14, 346-44, and 346-155; 7 C.F.R. §273.18(e); P.L. 117-328, Title IV, §502)

**§17-686.1-10 Denial or reduction of Summer EBT benefits for insufficient funds.** (a) The department or department's designee may deny an application for Summer EBT payments or reduce the amount of the payments when there are insufficient funds to pay for payment.

(b) When funds for the Summer EBT payments have or soon will be exhausted, the department may issue public notices.

(c) A decision under this section shall be final and conclusive and is not subject to administrative hearing under chapter 17-602.1 and section 17-686.1-8." [Eff \_\_\_\_\_] (Auth: HRS §§91-3, 91-4, 346-14, SLH 2024, Act 155; P.L. 117-328, Title IV, §502) (Imp: HRS §346-14; P.L. 117-328, Title IV, §502)

1. The adoption of chapter 17-686.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on Month XX, 2024 and filed with the Office of the Lieutenant Governor.

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RYAN YAMANE  
Director of Human Services

APPROVED AS TO FORM:

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Deputy Attorney General