

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 685.2

REPLACEMENT OF STOLEN FINANCIAL ASSISTANCE BENEFITS,
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)
BENEFITS, AND SUPPORTIVE SERVICE PAYMENTS

- \$17-685.2-1 Purpose
- \$17-685.2-2 Definitions
- \$17-685.2-3 Requirements for a claim for
replacement of stolen benefits
- \$17-685.2-4 Processing a claim for replacement of
stolen benefits
- \$17-685.2-5 Disposition and issuance of replacement
benefits
- \$17-685.2-6 Administrative hearing request
- \$17-685.2-7 Overpayment and fraud
- \$17-685.2-8 Denial or reduction of replacement
benefits for insufficient funds

Historical Note: Chapter 17-685.2 is based substantially upon chapter 17-685.1 Replacement of Stolen Financial Assistance Benefits, Supplemental Nutrition Assistance Program (SNAP) Benefits, and Supportive Service Payments [Eff 06/10/24; R 10/08/24]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-685.2-1 Purpose. (a) The purpose of this chapter is to establish the rules governing the administration and implementation of replacement benefits for households who were victimized by electronic benefit theft through card cloning, card skimming, or similar fraudulent methods.

(b) These emergency rules shall be effective upon filing with the Office of the Lieutenant Governor; provided that:

- (1) For SNAP benefits, the conditions set out in these rules shall apply retroactively to October 1, 2022; and
- (2) For financial assistance benefits and supportive service payments, the conditions set out in these rules shall apply retroactively as of October 9, 2024. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §346-14; 45 C.F.R. §98.1; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-2 Definitions. For the purposes of this chapter:

"Aid to the aged, blind and disabled" or "AABD" means financial assistance benefits for food, clothing, shelter, and other essentials provided to qualified elderly adults aged sixty-five years and older, or individuals who meet the Social Security Administration definition of blind or disabled.

"Alternate payee" means an adult designated by the household to receive an EBT card.

"Authorized representative" means a person designated in writing by the head of a household, the spouse, or other responsible household member, to act on behalf of a household in applying for program benefits, and in securing and using cash or SNAP benefits. For SNAP benefits, it shall also mean a private nonprofit organization or institution conducting a substance use disorder or alcoholic treatment and rehabilitation center, or a public or private nonprofit group living arrangement whose residents are blind or disabled recipients of benefits under Title II or Title XVI of the Social Security Act (42 U.S.C. §§401-433; 1381-1383), which will act on behalf of households who reside at the centers in applying for and obtaining food stamps.

"Benefit" means SNAP, financial assistance or supportive service payment provided to a qualified household unit or an individual member of the qualified household unit.

"Card cloning" means the electronic theft by covertly and illegally duplicating information of a debit, credit or EBT card that is copied onto a blank card or is overwritten onto another card.

"Card skimming" means the electronic theft of information on a debit, credit, or EBT card without the authorization of the card owner, by using a skimmer device to transfer, obtain, or record card information.

"Caretaker" means an adult, or an emancipated minor, who resides with and is responsible for the care of a child, and who is a birth, hanai, foster, or adoptive parent, guardian, permanent custodian, step-parent, or relative who is related to the child by blood, marriage, or adoption, or a person authorized by the caretaker through a power of attorney valid for a period not to exceed twelve months. The caretaker designation may remain even when the caretaker is temporarily absent from the home as long as the caretaker continues to maintain responsibility for the care, education, and financial support of the child. This includes a foster parent who may not be providing financial support to the child but may be receiving

support for the child from a private or public agency. This also includes minor teen parents who are birth parents to the child but cannot apply for child care payments themselves and must have an adult apply on their behalf.

"Child care subsidy" means a payment made to low-income parents, guardians, or other responsible parties to pay for the care of a child under the age of thirteen years, or age thirteen years or older if the child has qualifying special needs as defined under federal law.

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

"Electronic benefit transfer" or "EBT" means the computer-based system that processes and distributes authorized financial assistance, SNAP benefit, or supportive service payments in the form of cash, to qualified households from a central computer through an automated teller machine or point-of-sale device.

"Employment and Training" or "E&T" means the employment and training program, for individuals who receive SNAP benefits, that is composed of components or services that are designed to improve or increase a participant's employability and lead to gainful employment.

"Federal fiscal year" means the period of twelve consecutive months from October to September.

"Financial assistance" means cash benefits provided to qualified individuals and families through the aid to the aged, blind, and disabled program, general assistance program, or the federal- or state-funded temporary assistance for needy families program.

"First-to-Work" or "FTW" means the mandatory work program for household units that apply for or receive TANF financial assistance benefits.

"Fraud" means willfully providing a false statement or misrepresentation of a fact or concealing or withholding facts which results in the receipt of a replacement financial assistance, SNAP benefit, or supportive service payment 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 establishing or maintaining a claim of stolen financial assistance, SNAP benefit, or a supportive service benefit.

"General assistance" or "GA" means the financial assistance benefits for food, clothing, shelter, and other essentials provided to qualified adults ages eighteen through sixty-four years, without minor dependents, who are temporarily disabled and who do not qualify for Social Security benefits.

"Head of the household unit" means the responsible adult member of the recipient household unit who requests a replacement of the household's financial or SNAP benefits or a replacement of a household member's supportive service payment.

"Household unit" means all members and excluded standard filing unit members who reside in the same residence and receive financial or SNAP benefits as one household, or a household with at least one member who receives supportive service payments.

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

"Supportive service payment" means a child care subsidy, E&T, or FTW program payment issued to an eligible household unit or individual member of the household unit.

"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.

"Timely report" means the report of an electronic benefits theft within thirty calendar days from the date the theft was discovered for financial assistance and supportive service payments; or retroactive up to sixty calendar days after October 1, 2022 for SNAP

benefits. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-151; 45 C.F.R. §98.2; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-3 Requirements for a claim for replacement of stolen benefits. (a) A household unit may be eligible to receive a replacement of financial assistance, SNAP benefits, or a supportive service payment if:

- (1) There is sufficient evidence to determine the occurrence of electronic benefits theft and that the benefits were stolen through card skimming, card cloning, or similar fraudulent methods; and
- (2) The benefits were not lost or stolen by an alternate payee or authorized representative designated by the household unit.

(b) The household unit shall timely report to the department of an electronic benefits theft either in-person, in writing via electronic email or U.S. postal service, or by telephone.

(c) The household unit shall provide a written and signed attestation of the electronic benefits theft, on a department prescribed form, to initiate a claim for the replacement of stolen benefits. The attestation must be submitted within ten business days from the date the household unit reported the electronic benefits theft to the department and shall be submitted to the department in-person or mailed electronically or via the U.S. postal service. The attestation shall include the following information:

- (1) Full name of the head of the household unit;
- (2) The household unit's case number and the client identification number of the affected household member if the stolen benefits include child care subsidy, FTW, or E&T supportive service payment;

§17-685.2-3

- (3) The last four digits of the social security number for the head of the household unit;
 - (4) The last four digits of each EBT card number given to the household unit;
 - (5) The household unit's address and telephone number;
 - (6) The date of discovery of the electronic benefits theft; and
 - (7) Description of loss or theft of benefits, including the name and address of the retailer or ATM, if applicable.
- (d) The attestation shall be signed by the head of the household unit and acknowledges that:
- (1) The household unit's benefits replacement claim may be approved or denied;
 - (2) There is a limit to the amount of benefits that may be replaced;
 - (3) The household unit has the right to request an administrative hearing if the household unit does not agree with the department's denial of a claim for replacement of stolen benefits; and
 - (4) Under penalty of law that all information as stated on the attestation and any other information submitted is true and correct.
- (e) The household unit shall be provided up to ten days from the date of the department's request to provide additional information or evidentiary support of its electronic benefits theft claim. [Eff
- NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-155; 45 C.F.R. §98.50; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-4 Processing a claim for replacement of stolen benefits. (a) A claim for the replacement of stolen benefits shall not be processed until a complete and signed attestation is received by the department from the household unit.

(b) The department may contact the household unit to verify and confirm the information provided on the attestation. The review of the claim shall be completed within ten business days from the date the signed attestation was received by the department from the household unit; provided that the department has all the necessary information to verify and make a disposition on the household unit's electronic benefits theft claim.

(c) The department may validate a claim of electronic benefits theft through appropriate means including, but not limited to:

- (1) Verification that the attestation is complete and signed by the head of the household unit;
 - (2) Collateral contacts;
 - (3) Documentary evidence;
 - (4) EBT system and processor data transaction history;
 - (5) Department's call center, eligibility, and case management systems;
 - (6) Retailers or financial institutions of the ATM at where the electronic benefits theft reportedly occurred; and
 - (7) News media reports of identified card cloning, card skimming, or other similar fraudulent and electronic theft methods.
- [Eff NOV -5 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-155; 45 C.F.R. §98.50; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-5 Disposition and issuance of replacement benefits. (a) A household unit's claim for the replacement of stolen benefits shall be denied if:

- (1) The attestation was submitted untimely, not signed, or incomplete;

- (2) There is insufficient evidence to support the validity of the claim;
- (3) The claim was reported outside the timely reporting period as defined in section 17-685.2-2;
- (4) An approved claim would result in the household unit exceeding the two allowable issuances of replacement benefits in a federal fiscal year;
- (5) The department exercises the provisions of section 17-685.2-8 to deny claims; or
- (6) A claim is submitted for stolen program benefits that are not subject to replacement pursuant to this chapter.

(b) The household unit shall be notified of the department's determination and the reason for the determination. If eligible to receive a replacement of stolen benefits, the household unit shall be informed of the benefit type and the replacement amount, and when the replacement benefits will be available on their EBT card or bank account.

(c) For SNAP and financial assistance programs, the amount of benefits to be replaced shall not exceed the amount of the benefits stolen or the value of two months of the household unit's monthly allotment, whichever is less.

(d) For child care subsidy, FTW, and E&T programs, the amount of benefits to be replaced shall not exceed the amount established in subsection (c) below or the value of one month of the eligible household member's supportive service payment, whichever is less.

(e) If a household unit's claim of electronic benefits theft is cash-related and the amount stolen may include TANF or TAONF financial assistance, FTW supportive service payment, child care subsidy, E&T, or a combination of these benefit types, then the replacement of benefits shall be made in the following order and for the amounts specified:

- (1) TANF or TAONF financial assistance, up to the allowable replacement amount described in subsection (a) above; then

- (2) FTW supportive service payment, up to the difference between the replacement amount for TANF or TAONF financial assistance and the total amount of benefits stolen, or the value of the FTW supportive service payment for one month, whichever is less; then
- (3) Child care subsidy, if there is a balance of stolen benefits remaining. The child care subsidy replacement amount shall be the difference between the sum of paragraphs (1) and (2) and the total amount of benefits stolen, or the value of the child care subsidy for one month, whichever is less; then
- (4) E&T supportive service payment, if there is a balance of stolen benefits remaining. The E&T supportive service replacement amount shall be the difference between the sum of paragraphs (1), (2), and (3) and the total amount of benefits stolen, or the value of the E&T supportive service payment for one month, whichever is less.

(f) The replacement benefits shall be issued in the form of a deposit into the household unit's EBT card or direct deposit into a valid bank account, if the household has such direct deposit method already established.

(g) A household unit shall not receive more than two replacement issuances in a single federal fiscal year. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-155; 7 C.F.R. §274.6; 45 C.F.R. §98.50; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-6 Administrative hearing request. (a)

The household unit shall be provided an opportunity for an administrative hearing, other than the reasons listed in subsection (b), in accordance with chapter

§17-685.2-6

17-602.1, if the household unit disputes one of the following:

- (1) The department's determination of ineligibility for replacement benefits; or
 - (2) The amount of the replacement benefits when the amount determined is less than the maximum amount provided for under section 17-685.2-5.
- (b) An administrative hearing request shall be denied when:
- (1) The household unit disputes the amount of replacement benefits provided by the department and the household unit received the maximum amount of replacement benefits allowed pursuant to section 17-685.2-5;
 - (2) The household unit's claim for replacement of stolen benefits was reported outside of the timely reporting period as defined in sections 17-685.2-2 and 17-685.2-3;
 - (3) The household unit disputes the denial of a claim that was submitted for stolen program benefits that are not subject to replacement pursuant to this chapter;
 - (4) The household unit disputes a claim denial or the reduced amount of replacement benefits that were determined pursuant to section 17-685.2-8; or
 - (5) A provision of section 17-602.1-9 applies.
- (c) Aid paid pending an administrative hearing decision, described in chapter 17-602.1, shall not apply to a claim for replacement benefits as provided in this chapter.
- (d) The replacement of benefits shall not be issued until the administrative hearing process has concluded.
- (e) Household units shall be informed in writing at the time of any action affecting their claim, of the:
- (1) Right to an administrative hearing, when applicable;
 - (2) Method for obtaining a hearing; and
 - (3) Right to present the administrative appeal

independently or be represented by an authorized representative such as legal counsel, relative, friend or any other person of the household's choice. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-155; 45 C.F.R. §98.93; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

§17-685.2-7 Overpayment and fraud. (a) An overpayment shall be created when:

- (1) There is an error in determining the household unit's eligibility for replacement of stolen benefits that results in an overpayment; or
- (2) There is an error in calculating the replacement benefit 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 percent 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

§17-685.2-7

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, as defined in section 17-685.2-2, committed by the household unit or an individual household member shall be punishable under applicable state and federal laws. Chapter 17-604.1 shall be applied when an investigation of suspected fraud is required. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, 346-4.5, 346-14, 346-44, and 346-155; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, 346-44, and 346-155; 7 C.F.R. §273.18(e); 45 C.F.R. §98.50; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)


§17-685.2-8 Denial or reduction of replacement benefits for insufficient funds. (a) The department may deny claims for replacement of stolen benefits or reduce the amount to which stolen benefits are replaced when there are insufficient funds to pay for replacement benefits.

(b) When funds for the replacement of stolen benefits 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 17-685.2-6. [Eff NOV -6 2024] (Auth: HRS §§91-3, 91-4, and 346-14; 42 U.S.C. §§601, et seq.; 42 U.S.C. §618; P.L. 117-328, Title IV, §501) (Imp: HRS §§346-14, and 346-155; 45 C.F.R. §98.50; 45 C.F.R. §§260.20, et seq.; P.L. 117-328, Title IV, §501)

DEPARTMENT OF HUMAN SERVICES

The emergency rules chapter 17-685.2, Hawaii Administrative Rules, is adopted and shall become effective upon filing with the Office of the Lieutenant Governor.



RYAN I. YAMANE
Director of Human Services



JOSH GREEN, M.D.
Governor
State of Hawaii

Dated: 11/6/24

APPROVED AS TO FORM:



Deputy Attorney General

NOV - 6 2024

Filed

