

ASSEMBLY BILL

No. 756

Introduced by Assembly Member Mitchell

February 17, 2011

An act to amend Section 10072 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 756, as introduced, Mitchell. Electronic benefits transfer system.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefit transfer (EBT) system for the purpose of providing financial and food assistance benefits to needy Californians. Existing law authorizes a fee to be charged to the recipient for EBT cash withdrawal transactions that exceed 4 per month, not to exceed the amount allowed by applicable state and federal law.

This bill would specify that all reasonable measures should be taken to ensure that recipients have free access to the EBT system. The bill would revise fee provisions applicable to the EBT system, to identify the fee to be charged by the electronic benefits processor for transactions in excess of 4 per month as a transaction fee. This bill, to the extent permitted by federal law, would prohibit any person or corporation operating a device within the state that accepts electronic benefits transactions, from charging a recipient a surcharge or similar fee to make cash withdrawals or point of sale purchases, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10072 of the Welfare and Institutions
2 Code is amended to read:

3 10072. The electronic benefits transfer system required by this
4 chapter shall be designed to do, but not be limited to, all of the
5 following:

6 (a) To the extent permitted by federal law and the rules of the
7 program providing the benefits, recipients who are required to
8 receive their benefits using an electronic benefits transfer system
9 shall be permitted to gain access to the benefits in any part of the
10 state where electronic benefits transfers are accepted. All electronic
11 benefits transfer systems in this state shall be designed to allow
12 recipients to gain access to their benefits by using every other
13 electronic benefits transfer system.

14 (b) To the maximum extent feasible, electronic benefits transfer
15 systems shall be designed to be compatible with the electronic
16 benefits transfer systems in other states.

17 (c) All reasonable measures shall be taken in order to ensure
18 that recipients have *free* access to electronically issued benefits
19 through systems such as automated teller machines, point-of-sale
20 devices, or other devices that accept electronic benefits transfer
21 transactions. Benefits provided under Chapter 2 (commencing with
22 Section 11200) of Part 3 shall be staggered over a period of three
23 calendar days, unless a county requests a waiver from the
24 department and the waiver is approved, or in cases of hardship
25 pursuant to subdivision (I).

26 (d) The system shall provide for reasonable access to benefits
27 to recipients who demonstrate an inability to use, an electronic
28 benefits transfer card or other aspect of the system because of
29 disability, language, lack of access, or other barrier. These
30 alternative methods shall conform to the requirements of the
31 Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.),
32 including reasonable accommodations for recipients who, because
33 of physical or mental disabilities, are unable to operate or otherwise
34 make effective use of the electronic benefits transfer system.

35 (e) The system shall permit a recipient the option to choose a
36 personal identification number, also known as a “pin” number, to
37 assist the recipient to remember his or her number in order to allow
38 access to benefits. Whenever an institution, authorized

1 representative, or other third party not part of the recipient
2 household or assistance unit has been issued an electronic benefits
3 transfer card, either in lieu of, or in addition to, the recipient, the
4 third party shall have a separate card and personal identification
5 number. At the option of the recipient, he or she may designate
6 whether restrictions apply to the third party's access to the
7 recipient's benefits. At the option of the recipient head of
8 household or assistance unit, the county shall provide one electronic
9 benefits transfer card to each adult member to enable them to
10 access benefits.

11 (f) The system shall have a 24-hour-per-day toll-free telephone
12 hotline for the reporting of lost or stolen cards and that will provide
13 recipients with information on how to have the card and personal
14 identification number replaced.

15 (g) A recipient shall not incur any loss of electronic benefits
16 after reporting his or her electronic benefits transfer card or
17 personal identification number has been lost or stolen. The system
18 shall provide for the prompt replacement of lost or stolen electronic
19 benefits transfer cards and personal identification numbers.
20 Electronic benefits for which the case was determined eligible and
21 that were not withdrawn by transactions using an authorized
22 personal identification number for the account shall also be
23 promptly replaced.

24 (h) Electronic benefits transfer system consumers shall be
25 informed on how to use electronic benefits transfer cards and how
26 to protect them from misuse.

27 (i) Procedures shall be developed for error resolution.

28 (j) No fee shall be charged by the state, a county, or an electronic
29 benefits processor certified by the state to retailers participating
30 in the electronic benefits transfer system.

31 (k) Except for food stamp transactions, a recipient may be
32 charged a fee *transaction fee by the electronic benefits processor*,
33 not to exceed the amount allowed by applicable state and federal
34 law and customarily charged to other customers, *only* for cash
35 withdrawal transactions that exceed four per month.

36 (l) *Except as provided in subdivision (k), and to the extent*
37 *permitted by federal law, a recipient shall not be charged a*
38 *surcharge or similar fee to make a cash withdrawal or point of*
39 *sale purchase by any person or corporation operating a device*
40 *within the state that accepts electronic benefits transactions,*

1 *including, but not limited to, an automated teller machine (ATM)*
2 *or point-of-sale device.*

3 ~~(t)~~

4 *(m)* A county shall exempt an individual from the three-day
5 staggering requirement under subdivision (c) on a case-by-case
6 basis for hardship. Hardship includes, but is not limited to, the
7 incurrence of late charges on an individual's housing payments.

8 ~~(m) No later than May 1, 2000, the department shall prepare~~
9 ~~and submit a report to the Senate Health and Human Services~~
10 ~~Committee and the Assembly Committee on Human Services. The~~
11 ~~report shall contain estimates of the number of counties that may~~
12 ~~opt to issue cash benefits provided under Chapter 2 (commencing~~
13 ~~with Section 11200) of Part 3 by electronics benefits transfer and~~
14 ~~the amount of interest payments that would accrue to the counties~~
15 ~~pursuant to the three-day staggering requirement of subdivision~~
16 ~~(e).~~