

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

Health and Human Services

**Bureau name:**

Economic Stability Administration

**Name of person filling out RIS:**

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**Rule Set Information:**

**ARD assigned rule set number:**

2024-27 HS

**Title of proposed rule set:**

Family Independence Program

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

**A. Are these rules required by state law or federal mandate?**

The proposed rules are not required by state law or federal mandate.

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

There are no federal standards for these proposed rules.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

New York- New York has set up an EBT fraud replacement program in its state. Recipients are required to visit their county office or fill out a form online to begin the process of replacement based on New York Title IVA eligibility for replacement. See <https://www.nyc.gov/site/hra/help/request-for-replacement-of-stolen-benefits.page>.

California- California has implemented the EBT fraud replacement program in its state. Cash assistance recipients must contact the county office of the theft of the funds within 90 days of the date of the theft for replacement. See <https://cdss.ca.gov/inforesources/cdss-programs/ebt/ebt-electronic-theft-resources>.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

The proposed rules do not exceed standards in those states.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

There are no laws, rules, or other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

No federal, state, or local laws are applicable, nor is there duplication in adopting these rules as a result of MDHHS taking the recommendation from the U.S. Department of Health and Human Services from Memo number TANF-ACF-PI-2023-02 to adopt the EBT fraud replacement. See <https://www.acf.hhs.gov/ofa/policy-guidance/tanf-acf-pi-2023-02>.

## **Purpose and Objectives of the Rule(s)**

**4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

By replacing funds fraudulently taken from Michigan recipients, the EBT transfer makes replacement faster and allows recipients to continue to pay their bills and other obligations. Currently, the only remedy for fraudulent removal of a recipients funding is a gift card to one vendor. This practice is highly inefficient and places the vulnerable recipient in a position to fall behind on their bills. This changes the behavior of the recipient to place them back into a fluid position to pay their bills. The frequency of the behavior will depend on the frequency of the fraud and the eligibility standards.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

Receiving faster replacement of stolen funds allows the recipient to continue to meet their obligations on time without fear of falling behind on obligations or to get needed services and good for their families.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

The current remedy for fraudulent use of recipients benefits is to have the recipient manually receive a gift card to one vendor to replace the removed benefits. This is highly inefficient and makes the recipient pick and choose one vendor over another and places the recipient in a position to fall behind on bills and other obligations. Rapid replacement of funds does away with this issue.

**C. What is the desired outcome?**

The recipient and family can continue to receive timely benefits despite the fraudulent activity.

**5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

The current remedy of allowing the recipient to choose a vendor with a gift card is not efficient and causes the recipient and family to miss timely payments. Additionally, gift cards do not pay rent, which may lead to eviction. Changing the rules to quickly replace theft of benefits with timely EBT replacements will alleviate the concerns of a family not paying obligations and the vendor not receiving payments due to the theft.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

The federal recommendation allows the states to change the replacement of funds stolen without fault of the recipient. Michigan opted to change the rules to allow for timely replacement as opposed to the gift card/one vendor solution, which is not efficient.

**6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The proposed rules would improve the health, safety, and welfare of Michigan citizens. Lacking funds to purchase necessities may very well impact a family's health, safety, and welfare. The proposed rule changes will alleviate the worry of purchasing necessary items for the health and safety of the family. The quick and efficient replacement offered by the rule changes is less burdensome, as, without the rule changes, recipients will be behind on obligations and may never catch up, which can lead to eviction and other enforcement matters due to no fault of their own.

**7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are no rules that are obsolete and unnecessary that can be rescinded.

## **Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

There is no fiscal impact for costs to MDHHS. No system changes to Bridges are needed, and there will be no staffing changes to increase staffing or changes to referrals to the Office of Inspector General. There are potential savings to MDHSS as the current practice of giving gift cards comes out of MDHHS' emergency services fund and those funds will no longer be used.

**9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

No agency appropriation has been made or funding source provided with these proposed rules.

**10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The proposed rules are necessary and do not create burden. In fact, the rules bring a positive outcome to individuals. Stolen benefits are quickly replaced, families can pay obligations without interruption, the state saves money by discontinuing an inefficient process for replacement.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

There are no identified burdens. The rules are clearly needed and reasonable.

## **Impact on Other State or Local Governmental Units**

**11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

No increase or decrease in revenues or costs increases or reductions to other state or local governmental units (i.e. cities, counties, school districts) will occur as a result of the rules.

**12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

No program, service, duty, or responsibility will be imposed upon any city, county, town, village, or school district by the rules.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

There are no actions that governmental units must take to be in compliance with the rules.

**13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

No appropriation to state or local governmental units has been made or funding source provided with the proposed rules.

## **Rural Impact**

**14. In general, what impact will the rules have on rural areas?**

There will not be any impact to rural areas. Rural or urban, all recipients of assistance will benefit from the proposed rules, as will vendors.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

Private recipients will enjoy the speediness and efficiency of replacement of their stolen benefits that would ordinarily disrupt their use of their funds for resources. Private landlords will receive rental payments on time. Regarding public interests, utility companies will continue to receive payments and the recipient will not be in a position to fall behind and never catch up with their obligations.

## **Environmental Impact**

### **15. Do the proposed rules have any impact on the environment? If yes, please explain.**

The proposed rules have no impact on the environment.

## **Small Business Impact Statement**

### **16. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

The agency did not consider exempting small businesses from the proposed rules as small businesses are not negatively impacted by the proposed rules.

### **17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

Small businesses are not negatively impacted by the proposed rules. The rules benefit small businesses by allowing recipients who are now going to receive immediate replacement of their stolen funds to continue shopping at small businesses and paying vendors of small businesses, if necessary.

#### **A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

Small businesses will benefit from the rule changes. Assistance benefits will be replaced quickly and will not be limited to one vendor as the current practice provides and allows recipients to use their funds at any small business.

The number of small businesses, however, is unknown as it is too speculative to determine where and how many small businesses would reasonably be impacted by the proposed rules. Speculating would lead to unreliable data.

#### **B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

There is no differing compliance or reporting requirements or timetables for small businesses, as small businesses will not be impacted in these ways from the proposed rules.

#### **C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

The agency did not consolidate or simplify requirements for small businesses as small businesses will not be impacted in these ways from the proposed rules.

#### **D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

There are no performance standards to replace design or operation standards that are required by the proposed rules.

### **18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

No disproportionate impact from the proposed rules is imposed on small businesses because of their size or geographic location.

### **19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

There are no estimated costs for small businesses to comply with the proposed rules.

### **20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

There are no costs of compliance for all small businesses affected by the proposed rules.

### **21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

There are no costs for legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

**22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

Small businesses will not incur costs or be required to absorb costs under these proposed rules.

**23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

The rules do not exempt or set lesser standards for compliance by small businesses.

**24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

There will be no impact on the public and the rules do not exempt or set lesser standards for compliance by small businesses.

**25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

The agency has not involved small businesses in the development of the proposed rules as there is no impact on small businesses with the proposed rules.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

Small businesses were not involved in the development of the rules.

**Cost-Benefit Analysis of Rules (independent of statutory impact)**

**26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

No costs are anticipated for implementation of these rules. It is anticipated to save money, not create costs.

**A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

Businesses and recipients and their families are directly impacted by the proposed rules. Families will receive their stolen benefits back promptly to continue paying bills and to purchase goods and services from businesses. Groups affected include the recipients and their families who will immediately receive their stolen benefits back, which means no late payments and no picking and choosing a vendor for goods or services. No one will bear the cost of these rules.

**B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

No additional costs will be imposed on businesses or other groups as a result of these proposed rules.

**27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

There are no actual statewide compliance costs anticipated on individuals because of the proposed rules.

**A. How many and what category of individuals will be affected by the rules?**

All recipients of FIP benefits are affected by these rules. As of May 2024, there were 10,998 FIP cases and 26,285 FIP recipients.

**B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

Qualitative- The proposed rules provide a fast and efficient process to replace stolen benefits for the recipient and their families. This means businesses and services will continue to be paid promptly without interruption.

Quantitatively, all those recipients identified in the answer to 27A are potential beneficiaries of the proposed rules.

**28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

The only cost reduction anticipated is to the agency itself in saving funds from the emergency services funds as explained in Answer 8, as these funds will no longer be used to provide a stop gap for families for gift cards to one vendor only.

**29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

The primary and direct benefits are fast and efficient replacement of stolen monies to recipients so they can pay their bills and buy necessary resources for themselves and their families. This provides the indirect benefit to vendors and creditors of continuing to be paid for their services to the recipient without the recipient falling behind in delinquency. Businesses will benefit from providing continued use of benefits without interruption, and the state will no longer use the emergency services funds for gift cards, which will save the state money.

**30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

No change is anticipated in either business growth or job creation or elimination in Michigan.

**31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

No individuals or businesses will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

**32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

Federal memorandum allowing states to adopt new procedures for replacement by EBT for stolen funds: <https://www.acf.hhs.gov/ofa/policy-guidance/tanf-acf-pi-2023-02> ; articles addressing New York and California's adoption of the federal memorandum as referenced in Answer 2 above; Bridges information on number of recipients of FIP benefits.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

No estimates were made. The Federal memorandum was only recently published and there is no current feedback from the states using the new procedure at this time. Statistics were pulled from the state Bridges system to identify those impacted by the proposed rules currently receiving FIP benefits. The assumption is that the state will save money, as the emergency services fund will no longer be utilized for purchase of gift cards for replacement of stolen benefits.

## **Alternative to Regulation**

**33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

There are no reasonable alternatives to the proposed rules that achieve the same or similar goal.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

No statutory amendments are required.

**34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

FIP is a federal program and MDHHS relies on federal funding and the program must run by the designated state Title IVA agency which is MDHHS.

**35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

There were no other significant alternatives. Either the state followed the feds recommendation of repayment of stolen benefits quickly or to remain with a gift card program, which was not efficient. After internal discussion, the adoption of the federal recommendation was the best process moving forward.

## **Additional Information**

**36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

A job aid will be sent out in a memo to county offices through the Business Service Centers announcing the new process.