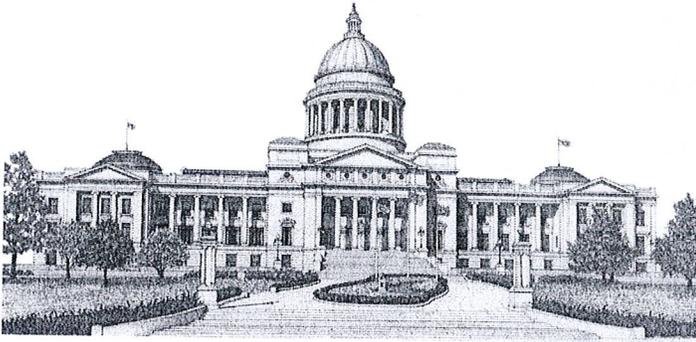


# ARKANSAS REGISTER

## Transmittal Sheet

\* Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State  
**Mark Martin**  
State Capitol, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-3527  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office  
Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Department of Workforce Services

Department Temporary Assistance for Needy Families

Contact Derwin Taylor E-mail derwin.taylor@arkansas.gov Phone 501-683-1353

Statutory Authority for Promulgating Rules Arkansas Code 20-76-401

Rule Title: Amended TANF State Plan Section 19-Electronic Benefits Transfer (EBT) Transaction

Intended Effective Date  
(Check One)

Emergency (ACA 25-15-204)

30 Days After Filing (ACA 25-15-204)

Other February 17, 2014  
(Must be more than 30 days after filing date.)

Legal Notice Published 11/1/13

Final Date for Public Comment 12/16/13

Reviewed by Legislative Council \_\_\_\_\_

Adopted by State Agency \_\_\_\_\_

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Derwin Taylor derwin.taylor@arkansas.gov 01/06/14  
Contact Person E-mail Address Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Artee Williams  
Signature

(501) 682-3101 artee.williams@arkansas.gov  
Phone Number E-mail Address

\_\_\_\_\_  
Director

\_\_\_\_\_  
Title

01/06/14  
Date

\_\_\_\_\_  
Date

**Section 17 – Reserved**

**Section 18 – Kinship Caregiver Services Project**

- 18.1 Eligibility
- 18.2 Program Design

**Section 19 – Electronic Benefits Transfer (EBT) Transactions**

- 19.1 Implementation Steps
- 19.2 Ensuring reasonable access to TANF EBT
- 19.3 EBT Card Access Fees and Charges

**Attachment 1 – Arkansas Department of Workforce Services Organization Chart**

Specific services provided under this project include:

- Initial Assessments;
- Family stabilization, strengthening and preservation activities;
- Literacy, Educational, Tutoring, and Mentoring activities;
- After school Enrichment and Physical Fitness activities;
- Absent Parent Therapeutic Healing activities;
- Caregiver Respite activities; and
- Legal Guardianship services.

## **Section 19 – Electronic Benefits Transfer (EBT) Transactions**

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96). Section 4004 of the Act requires States (but does not require Tribes) to prevent the use of Temporary Assistance for Needy Families (TANF) assistance in electronic benefit transfer (EBT) transactions at specified locations. In particular, the law requires States receiving TANF grants “to maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.” The law defines an electronic benefit transfer transaction as “the use of a credit or debit card service, automated teller machine (ATM), point-of-sale (POS) terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.”

The State Plan also must include an explanation of how the State plans to ensure that (1) recipients of the assistance have adequate access to their cash assistance, and (2) recipients of assistance have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges, and are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance, and that such information is made publicly available.

### **19.1 Implementation Steps**

The Department of Workforce Services will implement the following steps to restrict the use of TANF EBT cards at the specified establishments. These steps include:

Step One – Establishment Identification

Step Two – Federal Restrictions - Merchant Notification

Step Three – Federal Restrictions - Participant Notification

Step Four – Federal Restrictions - Staff Notification

Step Five – Development of Program Policies

Step Six – Development of EBT Transactions Monitoring

## **19.2 Ensuring reasonable access to TANF EBT**

The implications for restricting TANF benefit access at inappropriate locations is a reduction in the number of cash access locations available to EBT cash recipients. This is especially true in rural locations that have very few alternatives for cash access.

While use of or access to TANF benefits in an EBT transaction is limited as described above, the department is also required by federal law to ensure TANF participants have adequate access to their cash benefits. "Adequate access" to TANF benefits is determined on a case-by-case basis and may vary depending on individual participant strengths and barriers, including access to transportation.

When a TANF client expresses concern with access to their cash benefits or a worker determines a TANF participant does not have adequate access to benefits, the department will take reasonable steps to ensure adequate access for the participant.

## **19.3 EBT Card Access Fees and Charges**

Currently, TANF participants may use an ATM two times per month for free. Some ATMs and retailer POS terminals may surcharge your account. A surcharge is different from a transaction fee and may or may not be charged by a bank or retailer each time the TANF participant utilizes their card to access their cash benefits. There will be a warning about this fee. TANF participants do not have to pay the fee if they choose not to get their cash at locations where the fee is charged.

Some ATMs and most retailer POS terminals do not surcharge. TANF participants are encouraged to find a location that does not surcharge.

After the second cash withdrawal, TANF participants are charged a transaction fee. If they do not have a sufficient remaining balance in their account to pay this fee, the transaction will be denied.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Workforce Services  
DIVISION Temporary Assistance for Needy Families  
DIVISION DIRECTOR Phil Harris  
CONTACT PERSON Derwin Taylor  
ADDRESS PO BOX 2981, Little Rock, AR 72203  
PHONE NO. 501-683-1353 FAX NO. 501-683-1531 E-MAIL derwin.taylor@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Derwin Taylor  
PRESENTER E-MAIL derwin.taylor@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

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1. What is the short title of this rule?  Amended TANF State Plan Section 19- Electronic Benefits Transfer (EBT) Transaction \_\_\_\_\_
2. What is the subject of the proposed rule? Arkansas TANF State Plan Amendment
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. Sections 402, 408(a), and 409 of the Social Security Act.
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_
- When does the emergency rule expire? NA

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No   
If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule? Yes  No   
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Arkansas Code 20-76-401

7. What is the purpose of this proposed rule? Why is it necessary? Meet federal requirements to be eligible to receive and continue receiving the TANF Block Grant.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://dws.arkansas.gov/Programs/TANF/PublicNotice.htm>

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
12/16/13

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
2/17/14

12. Do you expect this rule to be controversial? Yes  No   
If yes, please explain. \_\_\_\_\_

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT**     Department of Workforce Services  
**DIVISION**        Temporary Assistance for Needy Families  
**PERSON COMPLETING THIS STATEMENT**   Derwin Taylor  
**TELEPHONE NO.**   501-683-1353   **FAX NO.**   501-683-1351   **EMAIL:**   derwin.taylor@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**     Amended TANF State Plan Section 19- Electronic Benefits Transfer (EBT) Transaction

1. Does this proposed, amended, or repealed rule have a financial impact?     Yes      No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?     Yes      No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?     Yes      No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;  
NA
- (b) The reason for adoption of the more costly rule;  
NA
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
NA
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
NA

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total 0

Total 0

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total 0

Total 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

- 
- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
  - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
  - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
  - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
    - (a) the rule is achieving the statutory objectives;
    - (b) the benefits of the rule continue to justify its costs; and
    - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Arkansas Department of Workforce Services  
Public Notice and Request for Public Comment

In accordance with Sections 402, 408(a), and 409 of the Social Security Act, the Arkansas Department of Workforce Services (ADWS) is amending its Temporary Assistance for Needy Families (TANF) Program State Plan for Title IV-A of the Social Security Act: TANF Program.

ADWS is requesting public comment on the amendment. The amendment is available for review at the ADWS website. In addition, hard copies are available at TANF – 4<sup>th</sup> Floor, #2 Capitol Mall, Little Rock, Arkansas 72203.

All comments must be submitted in writing no later than COB, Monday, December 16, 2013. Please submit written comments to Department of Workforce Services (TANF), Attn: Derwin Taylor, PO Box 2981, Little Rock, Arkansas 72203 or [derwin.taylor@arkansas.gov](mailto:derwin.taylor@arkansas.gov).