



Legislative Budget and Finance Committee

A JOINT COMMITTEE OF THE PENNSYLVANIA GENERAL ASSEMBLY

Offices: Room 400 • Finance Building • Harrisburg • Tel: (717) 783-1600

Mailing Address: P.O. Box 8737 • Harrisburg, PA 17105-8737

Facsimile (717) 787-5487

SENATORS

VACANT

Chairman

VACANT

Vice Chairman

JAMES R. BREWSTER

ROBERT B. MENSCH

DOMINIC PILEGGI

CHRISTINE TARTAGLIONE

JOHN N. WOZNIAK

REPRESENTATIVES

ROBERT W. GODSHALL

Secretary

VACANT

Treasurer

STEPHEN E. BARRAR

JIM CHRISTIANA

H. SCOTT CONKLIN

PHYLLIS MUNDY

EDWARD G. STABACK

EXECUTIVE DIRECTOR

PHILIP R. DURGIN

The Feasibility of Using Biometric Smart Cards or Photo ID Cards to Dispense Public Assistance Benefits

Conducted Pursuant to Senate Resolution 2012-322

November 2012

Table of Contents

	<u>Page</u>
Summary and Recommendations	S-1
I. Introduction	1
II. Social Service Benefits Accessed Through EBT Cards	3
III. Magnetic Stripe EBT Cards Already Do Much to Prevent and Detect Certain Types of Fraud	9
IV. Biometric Smart Cards and Photo IDs Would Likely Face Legal Challenges, Are Costly to Implement, and Would Provide Relatively Little Additional Security Against Identity Fraud	17
V. Appendices	27
A. Senate Resolution 2012-322	28
B. SNAP Participation in Contiguous and States Similar to Pennsylvania...	30
C. Response to This Report.....	31

Summary and Recommendations

Senate Resolution 322 directs the Legislative Budget and Finance Committee to study the advantages of biometric smart cards and photo identification cards over the current magnetic stripe Access cards in preventing fraud and efficiently transferring payments in the Department of Public Welfare public assistance programs. We found:

Magnetic stripe EBT cards already do much to prevent and detect certain types of fraud. DPW's SNAP (Supplemental Nutrition Assistance Program), TANF (Temporary Assistance for Needy Families), Medical Assistance, and several smaller programs already provide benefits through a magnetic stripe EBT card, known as the Access card. The WIC (Special Supplemental Nutrition Program for Women, Infants and Children) program still uses paper checks and vouchers, but will be moving to an electronic system in 2017.

Access cards have significant advantages over paper-based systems because they create an electronic record of all transactions, which greatly enhances DPW's ability to detect and investigate potential fraud. The U.S. Department of Agriculture credits the widespread use of EBT cards as instrumental in the decline in SNAP fraud trafficking from four cents on the dollar in 1993 to one cent on the dollar for the period 2006-2008.

Magnetic stripe EBT cards, smart cards, and photo IDs are limited in their ability to prevent some of the most common types of fraud. SNAP fraud often involves a retail store working in collusion with the SNAP recipient. TANF fraud generally occurs at the point of determining eligibility for benefits (e.g., the recipient misrepresenting the number of people living in the household or household income), and Medical Assistance fraud typically occurs on the provider side (e.g., billing for services not rendered or providing services that are not medically necessary). These types of fraud do not involve identity theft, so cards that contain photos or other biometric information on the recipient are not particularly effective countermeasures.

Smart cards (cards with embedded integrated circuits) do, however, have the potential to help prevent some types of provider fraud, for example, by requiring an electronic verification between both the provider's smart card and the beneficiary's smart card. Such two-way verification procedures reduce the opportunity for phantom billing, a common type of fraud in the Medicaid program, where tests and other procedures that were never performed are billed to Medicaid.

Magnetic stripe EBT cards are relatively easy to counterfeit, and such commercial cards will soon be replaced with microchip-embedded smart cards.

By swiping a valid card through an easily obtained magstripe reader, it is relatively simple for criminals to decode the information on the magnetic stripe and make duplicate cards that function as the original. Debit cards have an extra layer of protection (the PIN), but are still vulnerable. VISA, MasterCard, and other major issuers of debit and credit cards have taken steps to replace magnetic stripe cards with smart cards, which are much more difficult to copy or counterfeit, by 2015. Virtually all point-of-sale card reading devices now being sold accept both magnetic stripe and smart cards.

Photo ID systems are costly to implement and would likely face legal challenges; smart card systems, though initially more costly than magnetic stripe cards, are more feasible and will soon be commonplace. Magnetic stripe EBT cards cost DPW about \$.23 per card. Implementing a Photo ID program would cost approximately \$8 per card. With over 2 million Access cards currently in circulation, the additional cost of photo cards, in particular, is significant. The cost of a photo ID is also problematic because SNAP recipients often lose (or sell or give away) their Access cards, resulting in additional costs for replacement cards. Photo ID cards also require recipients to travel to some type of photo center—presumably the county assistance office—which can be a major obstacle, particularly for people who are elderly or have a disability. New York is the only state we found that currently uses a photo ID (for TANF and some Medicaid recipients), and it is in the process of re-evaluating the cost effectiveness of the photo ID.

In addition to cost considerations, a photo ID program is problematic because the federal government (1) requires that any member of the household be allowed to make SNAP purchases and (2) that SNAP recipients be treated no differently than the store's other consumers. There is also the practical matter that customers, including SNAP recipients, generally swipe their own cards at the point of sale. Because Access cards function as debit cards, rather than credit cards which use signature verification, it is likely that a store clerk would never see the photo on the EBT card.

Several states currently use smart cards (nonbiometric) in their WIC programs, and the Department of Health plans to move to a smart card system for Pennsylvania's WIC program by 2017. Though initially more expensive than a magnetic stripe card (smart cards currently cost about \$1.00 to \$1.50), at least some of these costs can be offset by the lower transaction costs of smart cards, which do not have to access a central server for every transaction and can electronically manage more types of transactions than a magnetic stripe card.

Beyond greater security, smart cards can hold large amounts of information and offer several advantages over magnetic stripe cards, particularly for programs such as Medical Assistance and WIC, including:

- Patient healthcare information and prescriptions can be stored on the card and updated after issuance, providing up-to-date information when a patient is receiving medical care from multiple providers or in an emergency situation.
- Multiple patient identification or patient record identification numbers can be written to the smart card, facilitating record exchange and assisting with coordination of care among multiple healthcare providers.
- Patient registration and patient information can be accessed at any points of care, reducing routine paperwork and eliminating errors.
- In the WIC program, smart cards can be programmed to pay for only allowable food items and within certain price ranges.

Most states have eliminated fingerprinting as a fraud prevention measure due to concerns over costs, the inability to determine its effectiveness in preventing fraud, inconvenience to recipients, and the stigma associated with fingerprinting. A decade ago, at least eight states used mandatory fingerprinting as a tool to prevent duplicate applications for benefit programs (not at the point of sale). Only Arizona has retained a fingerprint requirement. Texas used digital fingerprint traits as a biometric identifier on smart cards (on a voluntary basis) as part of a Medicaid pilot, but subsequently abandoned the program, in part because it was unable to determine the extent to which fingerprint identity resulted in reduced fraud. In 2008, DPW estimated that fingerprint requirement Access cards would cost more than \$55 million in start-up costs and about \$12 million annually in additional staff costs.

Recipients can now apply for many public assistance programs using the phone or a computer without ever visiting a county assistance office, which would not be possible with a fingerprint requirement. Additionally, fingerprints have a negative connotation because they are associated with law enforcement agencies, and may intimidate people enough for them to avoid participating in the program(s).

Recommendations:

1. ***The Department of Public Welfare monitor the pilot programs being conducted in other states to test the feasibility of replacing magnetic stripe Access cards with microchip-embedded smart cards.*** Smart cards, although initially more costly than magnetic stripe EBT cards (\$1-\$1.5 versus \$.23), have certain clear advantages, such as greater security; lower transaction costs; the ability to manage several programs on a single card; and the ability to store potentially life-saving medical information (e.g., blood type and known allergies). While the United States is generally behind Europe in implementing smart cards, this will soon change as VISA, MasterCard, and other major commercial cards adopt

smart card technologies and smart card readers become the norm in retail stores.

Using smart cards to deliver public assistance benefits such as WIC, SNAP, TANF, and Medicaid all on the same card appears technically feasible, but has not yet been successfully implemented by any state. Even pilots to implement smart cards for only the Medicaid program have floundered.

For these reasons, we recommend that, at this point, the Department of Public Welfare simply monitor the smart card pilot programs being conducted in states such as Texas and North Carolina. If these or other similar pilot programs are deemed successful and result in statewide implementation, DPW should then consider conducting its own pilot program as a way to assess the technical, regulatory, and public acceptance issues that would be involved in implementing either a biometric or nonbiometric smart card program in Pennsylvania.

2. ***The General Assembly consider additional funding to the Office of Inspector General to investigate and prosecute retailers engaged in SNAP fraudulent activities.*** The Pennsylvania Office of Inspector General currently conducts field investigations and prosecutes cases against SNAP recipients, but not against retail stores. The USDA has given the approval to investigate retailers on the state level and the General Assembly has enacted the necessary legislation. The OIG's office, however, reports it has insufficient funding to take on this new role.

I. Introduction

Senate Resolution 322 of 2012 directed the Legislative Budget and Finance Committee to study the Commonwealth's usage of electronic benefit transfer cards and whether biometric smart cards containing additional identifying information, such as a photograph or fingerprint, would generate savings through increased efficiencies and reduced abuse.

Scope and Objectives

The study scope and objectives, as defined in SR 322, are to:

1. Identify the costs and benefits of providing each eligible recipient with a new Access card containing additional identifying information.
2. Identify the costs and benefits of Access cards with varying degrees of information which may include the following:
 - a. photograph;
 - b. fingerprints; and
 - c. other personal details of the recipient.
3. Identify any technology costs associated with the purchase of new equipment and ongoing expenses.
4. Identify the types of abuse that occur with the Access cards and whether additional identifying information will stop the abuse.
5. Recommend whether any savings generated through enhanced identifiers offset the costs of Access card modifications.

Methodology

We met with staff from both the Department of Public Welfare (DPW) and the Department of Health, the administrative entities for public assistance programs, as well as the Office of Inspector General, which investigates fraud cases from DPW. We also spoke to smart card industry experts to gather information on the functionality and security of smart cards. We also spoke to federal officials, and other interested parties. We also interviewed other state officials to identify any states that are using smart card technology.

We reviewed pertinent statutes, regulations, and legislation. We reviewed both federal and state statistics regarding participation in public assistance programs in Pennsylvania as well as statistics regarding fraud and fraud investigations. We also used published reports, including those of the Pennsylvania Office of

Auditor General, to identify the various types of fraud that occur within public assistance programs and the remedies that are being pursued to reduce fraud.

Acknowledgments

LB&FC staff completed this report with cooperation and assistance provided by leadership and staff in the Department of Public Welfare Office of Income Maintenance and the Department of Health Bureau of Family Health and Division of WIC. We also acknowledge the cooperation and assistance provided to us by the Pennsylvania Office of Inspector General, the Smartcard Alliance, Community Legal Services of Philadelphia, along with representatives from the federal USDA Food and Nutrition Services, the Department of Health and Human Services, and the Centers for Medicaid and Medicare Services. We also appreciate the assistance we received from NCSL and representatives of select other states we contacted regarding their experiences in this area.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as indicating that the Committee's members endorse all the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. Social Service Benefits Accessed Through EBT Cards

In Pennsylvania, recipients of different public benefit programs, such as the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Medical Assistance and Medical Assistance Transportation Program (MATP),¹ and Special Allowance, access these benefits through the use of magnetic stripe electronic benefits transfer (EBT) cards, called Access cards in Pennsylvania. Additionally, State Supplementary Payments and the State Blind Pension may be accessed through Access cards.² The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) does not use EBT cards for distribution of benefits at this time, but the Department of Health (DOH) plans to move to an electronic system by 2017.³

EBT Systems

Pennsylvania, like all other states, uses a magnetic stripe EBT card system to deliver at least some public assistance benefits. Magnetic stripe (or “magstripe”) cards are commonly used in the United States on credit cards, debit cards, employee badges, government identification cards, public transport passes, train tickets, customer loyalty cards, gift cards, and express payment cards. These cards have a magnetic stripe made of iron-based magnetic particles that can hold several lines of information.

The magnetic stripe on a credit card contains three separate tracks of data, each with a width of about 1/10 inch. The first track contains the credit card number, expiration date, account holder’s name, the county in which the card was issued, and 79 additional character spaces reserved for the issuing bank. The second track contains additional identifying information, plus 40 additional character spaces. The information in the third track of the magnetic stripe varies depending on the issuing bank, but it can include the card’s PIN number (though often PINs are not stored on the card), authorized spending amount, and the currency units.

When a credit card is swiped through a magnetic reader at a point-of-sale terminal, the reader obtains the information from the stripe by analyzing the orientation of the magnetic particles embedded in the stripe. This information is sent

¹ Although the Medical Assistance Transportation Program (MATP) benefit is not specifically issued on an Access card, the medical transportation allowances for individuals living in counties that do not have MATP and transportation needs not covered by MATP can be issued on the EBT card for recipients of TANF, SSI or certain medical assistance categories.

² DPW also distributes child support payments to custodial parents through a magnetic stripe card as well. About 55 percent of DPW’s clientele receives payments in this manner, rather than direct deposit. The card is a branded MasterCard and can be used in retail establishments as well as at ATMs. We did not include more information regarding this program because it is not a public assistance program.

³ The federal government has issued a mandate for all states to implement an electronic system for WIC programs by 2020. See page 16 for further discussion.

through a modem to a company that checks to see if the account is in good standing and has enough credit available to cover the purchase. Once the card is approved, the account holder can complete the purchase.

Magstripe cards, however, are susceptible to cloning. Magstripe readers and writers are commonly obtainable, along with software for analyzing data encoded within the magnetic stripe. By swiping a valid card through a magstripe reader, it is relatively simple to make duplicate cards that function as the original. Debit cards are generally considered more secure than credit cards because they have an extra layer of protection (the PIN, versus simply a signature on a credit card), but various methods exist to obtain PIN numbers, so they are also vulnerable.

Recipients Use Magstripe EBT Cards to Access a Variety of Public Assistance Programs

Pennsylvania's Access card is a teal green, magstripe card through which recipients access a variety of public assistance benefits. Transactions occur when a recipient is in a store and uses the EBT card for purchases. The information on the magnetic stripe is accessed over an online network, and the transaction is either approved or rejected.

Supplemental Nutrition Assistance Program (SNAP): SNAP replaced the food stamp program, and recipients now use Access cards, rather than paper coupons, to access their benefits electronically for making food purchases. The program is administered at the federal level by the Food and Nutrition Service within the U.S. Department of Agriculture (USDA) and at the state level by the Department of Public Welfare. It is funded primarily with federal dollars, with Pennsylvania sharing administrative expenses.

Access cards are issued to a designated household member. Before a card can be printed, the case must be authorized and a recipient number assigned. The SNAP program uses three types of EBT cards:

1. **Primary Access card:** This card establishes the account and the payment name on the EBT system. County assistance offices must issue this card first.
2. **Secondary card:** This card is for another adult who must be an authorized member of the household and 18 years of age. This cardholder has the same access to benefits as the primary cardholder and must have the primary cardholder's approval.
3. **Authorized representative card:** This card allows a recipient who is unable to use the EBT system because of disability to designate a person to access the benefits as his or her representative.

DPW deposits the client's SNAP benefit amount in an access account each month on a regular payment date. Clients keep their existing Access cards and do not need to visit a county assistance office to receive the new monthly benefits.

Household members buy food at authorized stores by swiping their Access cards through card readers at the checkout counter. The store's point-of-sale (POS) system connects to the EBT system to check the personal identification number (PIN) and to confirm that funds are available in the account. The EBT system returns an approval code to the POS system and subtracts the amount of purchase from the household's account. The store receives its payment within two business days. There are no minimum dollar amounts or transaction fees.

Benefits may accumulate in the account. If there is no debit activity for 180 days, the EBT system returns the funds to DPW and suspends the card. The household may ask to reinstate the returned benefits for up to one year from the original issue date.

Federal rules establish eligible purchases under SNAP. Foods that may be purchased under the program include fruits, vegetables, cereals, breads, meats, poultry, fish, and plants or seeds that produce food to eat. Items that may not be acquired under SNAP are beer, wine, or liquor; "ready-to-eat" foods; cigarettes or tobacco; hot foods; vitamins and medicine; and non-food items such as pet foods, soaps, paper products, or household supplies.

During FFY 2010, there were 1,574,783 participants in the SNAP program in Pennsylvania, comprising 740,186 households for a total of \$2.33 billion in benefits.⁴ In Pennsylvania, the average monthly benefit per person was \$123.43 and the average monthly benefit per household was \$262.61.

Temporary Assistance for Needy Families (TANF): TANF is a block grant program intended to provide temporary assistance while helping move recipients into work. Under the welfare reform legislation of 1996, TANF replaced the old welfare programs known as the Aid to Families with Dependent Children (AFDC) program, the Job Opportunities and Basic Skills Training (JOBS) program, and the Emergency Assistance (EA) program.

⁴ The most recent data available from DPW shows that as of May 2012 there were 1,842,688 participants in the SNAP program. The 12 percent of Pennsylvania's population that was receiving SNAP benefits is in line with other states, whose participation rates ranged from a low of seven percent in New Jersey to a high of 18 percent in both Michigan and West Virginia. Appendix B shows the number of SNAP recipients in Pennsylvania and several other selected states.

To be eligible for TANF, a Pennsylvania applicant must be a United States citizen, be a resident of Pennsylvania,⁵ and have resources/assets with a value of \$1,000 or less.⁶ Unless excused, applicants are required to seek a job or participate in an employment and training program and are required to help complete a plan for after cash assistance is no longer needed.

TANF provides families with cash assistance benefits that are accessed through an Access card—the same Access card used in the SNAP program—at automated teller machines and point-of-sale terminals that accept QUEST. Benefits are issued twice per month, with one-half of the cash grant on each payment date. In some cases, the Access card is also used to distribute child support payments to custodial parents who receive TANF.

According to DPW, as of May 2012, there were 212,544 Pennsylvania families receiving TANF benefits. Benefit amounts depend on household size and the county where the household lives, but typically range from about \$280 a month for a household of two living in a low-cost county to about \$500 a month for a family of four in the southeastern counties. For FY 2011, total funds spent on TANF assistance in Pennsylvania were \$1.13 billion.

Medical Assistance (Medicaid): Medical Assistance (MA) is a public health insurance system with eligibility based on income and other criteria, including health status. It is jointly funded by the federal and state governments and administered by the state. Access cards are used by MA recipients to access both medical and mental health benefits. The Access card is yellow if a recipient receives only MA benefits and teal green—the same card used for SNAP and TANF—if eligible for other benefits. If the household is enrolled in a managed care organization (MCO), the yellow/green EBT card is no longer used for MA and the MCO card is the recipient's medical card. The Access card is used for medical costs not provided by the MCO but covered as an eligible service by Medicaid.

Under the MA program, the Access card is presented to the medical provider at the time of service. The card's magnetic stripe contains information to identify eligibility for benefits. The provider uses the card in conjunction with the Eligibility Verification System (EVS) to obtain real-time information on MA eligibility. EVS is a real time, online system that provides information regarding a recipient's eligibility for services. EVS can provide verification of present and past eligibility for benefits. Providers contact the EVS system with a point-of-sale device, computer, or telephone. EVS then identifies the scope of services covered for the recipient, third-

⁵ Certain non-citizens lawfully admitted for permanent residence may be eligible. Applicant and family members must provide Social Security numbers or apply for them.

⁶ An applicant must report all income from employment or from other sources including, but not limited to, child support, unemployment compensation, interest, Social Security benefits, or lottery winnings.

party resource information, managed care plan enrollment, and any restrictions to services.

As of May 2012, 2,215,488 individuals were being served by the MA program, or 17.4 percent of Pennsylvania's population.⁷

Special Allowances, or Road to Economic Self-Sufficiency through Employment and Training (RESET): Special allowances are payments made by DPW for practical supports to enable TANF and SNAP recipients to work or participate in training programs that will allow them to become more self-sufficient. Recipients use the Access card to access their benefits, or county assistance offices may issue checks directly to vendors. Frequency of payments may vary depending if a recipient is receiving TANF and SNAP or is just a SNAP recipient. Exhibit 1 below shows the types of expenditures that are allowed under RESET and the maximum dollar amounts.

Exhibit 1

Work and Work-Related Special Allowances		
Type of Allowance	Uses of Payments	Maximum Allowance
Public Transportation Related	Bus, subway, taxi commuter rail, paratransit	Actual cost up to \$1,500 annually
Private Transportation Related	Privately-owned vehicle; volunteer car and driver; car or van pool; moving/relocation costs to accept employment; motor vehicle repair; motor vehicle expenses, including license, registration, inspection, etc.	Actual cost up to \$1,500 annually, except for moving/relocation costs to accept employment, which is actual cost, up to \$200
Motor Vehicle Purchase	Purchase of a vehicle	Actual cost for one vehicle, up to \$1,500 in a lifetime
Motor Vehicle Insurance	Purchase of insurance	Actual cost up to \$1,500 in a lifetime
Clothing	Clothing as required for work or work-related activities	Required clothing or actual cost of clothing up to \$150 annually
Work and Training Related Allowances	Tools and equipment; books and supplies; fees; union dues; professional fees	Actual cost up to \$2,000 in a lifetime

Source: Developed by LB&FC staff from the Pa Code.

Special allowances are reviewed and approved by DPW staff. Issuance is entered in DPW's Client Information System (CIS) with a code indicating the type

⁷ Percentage is based on estimated 2011 Pennsylvania population.

of allowance being issued, the amount of the allowance, and the time period being covered. There are edits programmed for each code so the amounts are not above the regulated amounts or frequency. The amounts entered are loaded on the card in an overnight batch and are available the next day. The system also creates a report to alert headquarters staff of any amounts or frequencies above pre-programmed thresholds to ensure program integrity.

State Blind Pension: This is a state-funded cash assistance program that provides pension benefits for adults who meet visual requirements and other conditions of eligibility. The program benefit is a maximum of \$100 per month, which is provided to recipients through either the Access card or via check. DPW reports that, as of May 2012, only 247 Pennsylvanians received this benefit.

State Supplemental Payments: This program is a payment of \$22.10 made to individuals who receive Supplemental Social Security (SSI) disability or age-based payments from the federal government. Most recipients automatically receive the SSP after becoming eligible for SSI. All SSP recipients are seriously disabled or over the age of 65. Although the Commonwealth typically distributes the SSP through direct deposit, some recipients receive the payment through an Access card. In FY 2010-11, approximately 390,000 recipients received state supplemental payments in the amount of \$8.2 million.

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): WIC is a program of the Pennsylvania Department of Health with funds from the U.S. Department of Agriculture. The purpose of the WIC program is to safeguard the health of low-income women, infants, and children up to age 5 who are at nutrition risk by providing nutritious foods to supplement diets, information on healthy eating, and referrals to health care.

Currently, WIC recipients do not receive benefits through EBT cards; however, DOH is moving toward the use of an electronic means for delivery of benefits. In March 2011, the USDA issued a policy memorandum that mandates each state agency implement an EBT system by October 1, 2020, unless granted an exemption by the U.S. Secretary of Agriculture. Each state that does not already use EBT for WIC must file a status report to the USDA's Food and Nutrition Service (FNS), which officials at DOH have informed us that they have completed. DOH informed us that they are reviewing newer technologies and how to integrate them into the WIC program. The department intends to issue an RFP and expects to be in compliance with the federal mandate by 2017.

The USDA reported 254,507 participants in the WIC program in Pennsylvania as of March 2012. In FY 2011, total food costs in Pennsylvania were \$161,926,585, with the average monthly benefit per person being \$52.32.

III. Magnetic Stripe EBT Cards Already Do Much to Prevent and Detect Certain Types of Fraud

Magnetic stripe EBT cards have helped reduce fraud and theft in social welfare programs because (1) the user must know the participant's PIN to access benefits and (2) EBT systems provide an electronic record of transactions which greatly enhances the ability to monitor transactions and detect potential fraud. Other forms of fraud, particularly those involving the provider or provider/beneficiary collaboration, can still occur with an EBT card. But even biometric smart cards and photo IDs are limited in their ability to prevent these types of fraud.

According to DPW officials, EBT has aided in fraud reduction in the following ways:

- Prior to EBT, coupons were issued for food stamps, which meant that if the coupons were sold or exchanged, the recipient could still receive cash assistance. By having both benefits accessed on one card, this becomes more difficult, so there is an inherent deterrent from selling the card which may have cash benefits on it.
- EBT cards have reduced fraud with the inherent ability to track a card and its use, unlike coupons which could not be tracked. Tracking allows both retailers and clients to be monitored for suspect behavior.
- Food stamp coupons were not issued in amounts lower than \$1.00 increments. Any purchase under a dollar was given change in U.S. currency. Recipients would purchase small items and collect the change for purchase of unallowable items like cigarettes or liquor. Because of EBT, change is no longer given and this type of activity cannot occur without collusion with a retailer.

In addition to DPW's response, we reviewed various other reports to identify the common types of fraud in the major public assistance programs:

SNAP Trafficking: Trafficking of SNAP benefits occurs when benefits are exchanged for cash or consideration other than eligible food. According to the USDA, such trafficking is not a direct cost to the federal government, but it does divert benefits from their intended purpose. Trafficking typically occurs when a recipient sells his or her EBT card for less than the available benefits. Cards may be sold to individuals, but often retailers buy the cards from recipients. Cards may also be listed for sale on the Internet and on websites such as EBay or Craig's List. The USDA is aware of this practice and has sent letters to both companies asking for their help in preventing the sale of EBT cards over the Internet. The USDA has also contacted Twitter and Facebook for the same reason.

In March 2011, the USDA issued a report, *The Extent of Trafficking in the SNAP Program*, which included data from 2006-2008. The data shows that the SNAP trafficking rate has declined over the past two decades, going from four cents on the dollar in 1993 to one cent on the dollar for the period of 2006-2008. The USDA cites the use of EBT systems as instrumental in combating fraud. Because of the data that is available from EBT systems, a trail of transactions can be readily followed that was not available with the paper food stamp system.

The estimates of trafficking in the report are based on information from about 38,000 stores subject to administrative surveillance or undercover investigation from 2006-2008, with both focusing on retailers that exhibit suspicious behavior. The report included several findings:

- Trafficking diverted an estimated \$330 million annually from SNAP benefits, with trafficking occurring at 8.2 percent of all stores.
- A variety of store characteristics and settings were related to the level of trafficking. Large stores accounted for 87.3 percent of all SNAP redemptions and accounted for about 5.4 percent of trafficking redemptions; a .06 percent trafficking rate compared to 7.7 percent in small groceries.
- The total annual value of trafficked benefits increased, but at about the same rate as overall program growth.

Given that Pennsylvania recipients were issued \$2,332,575,204 in SNAP benefits in FFY 2010, if the rate of fraud trafficking is the same here as it is nationally, it would translate into about \$23 million being diverted because of trafficking.

Replacement Cards: If a recipient sells, loses, or gives away an Access card, he or she can request a replacement card. According to DPW, when an Access card is replaced, the replaced card is deactivated and cannot access the client's account and any benefits remaining on the account will be available immediately after the replacement card is pinned. Thereafter, any benefits due will be available on the regularly scheduled payment date. The USDA has recognized that multiple replacement cards are a red flag for fraud and is taking steps to address this issue.

In particular, the Food and Nutrition Service within the USDA has issued a proposed rulemaking to further aid in combating EBT card fraud. The rulemaking would amend the rules regarding the replacement of EBT cards as well as the definition of trafficking. The new rules would allow states to ask recipients for an explanation if replacement EBT cards are requested too often. States may determine this threshold, but they must allow at least four replacements within 12 months prior to the current replacement request. This would be the case unless the state agency has sufficient additional evidence indicating suspected intentional program violations. The proposed rules also would clarify the definition of trafficking to include the intent to sell benefits in cases where an individual makes an offer to sell

benefits and/or an EBT card online or in person. This will allow states to pursue an intentional program violation against the individual who made the offer now without there having to be a completed sale.

DPW reports it is also reviewing excessive issuances of replacement cards. In light of the new federal rulemaking regarding replacement cards, the department has formed a working group that meets on a weekly basis to develop a procedure to find solutions to this issue and find a process that will work. A DPW official told us that the department is currently proposing targeting those recipients that receive four or more cards within a six-month period.

When the federal rulemaking becomes final, DPW will have to make other adjustments as well, such as working with the EBT contractor to develop a method of suspending SNAP accounts while not affecting cash benefits; suspending cases that have received the limit of cards; and developing new notices to be sent to recipients informing them of the new process, alerting them when benefits are being suspended, and informing them of the actions they must take for a card to be reissued.

Out-of-State Use of SNAP Benefits: The Pennsylvania Auditor General's Office issued a report, *A Special Report of the Department of Public Welfare: Electronic Benefits Transfer Cards and the Delivery of Public Assistance Benefits*, in September 2011. One of the issues that the Auditor General's office suspected, but could not confirm, was that non-Pennsylvania residents were receiving benefits.⁸

Subsequent to this report, DPW conducted its own study of recipients who were flagged based on three months of exclusive use in a non-contiguous state. In May 2012, DPW issued the results of its review, which found 653 cases (of the 1,123 cases that were reviewed), or 58.1 percent, that were closed as a result of the review, meaning the recipients were removed from the program.

In addition, in February 2012, county assistance offices began to conduct monthly residence reviews for those recipients who completed all EBT transactions in the past three months in a non-contiguous state. DPW eventually intends to extend the program to contiguous states.

Fraud Responsibilities and Investigations: Responsibility for detecting and investigating fraud is the responsibility of both federal and state governments. At the federal level, FNS mainly pursues retailer fraud. At the state level, DPW and the Office of Inspector General mainly pursue recipient fraud.

⁸ According to the report, DPW was unwilling to provide the necessary documentation to the Auditor General's office to confirm these findings.

USDA Fraud Prevention Efforts: The USDA requires each state agency (in Pennsylvania's case, DPW) to be responsible for conducting quality control reviews as part of its reporting system. Reviews are to be conducted to determine if households remain eligible and are receiving the correct amount of benefits.

In order to combat fraud, the USDA:

- Conducts fraud investigations.
- Tries to control trafficking by using SNAP purchasing data to identify suspicious transaction patterns, conducting undercover investigations, and collaborating with other investigative agencies.
- Uses the electronic audit trail from transactions to identify trafficking or suspicious activity. The Anti-Fraud Locator using EBT Retailer Transactions (ALERT) system monitors electronic transaction activity and identifies suspicious stores for analysis and investigation. The system identifies high-risk retailers based on patterns in transaction data commonly associated with trafficking.
- Works with state law enforcement to provide benefits that are used in sting operations.

The USDA is also actively pursuing fraud involving retailers that submit fraudulent applications to redeem SNAP benefits at a location where their authorization to receive SNAP payments was previously revoked. To combat this, the USDA is increasing documentation requirements to verify identity and ensure business integrity and researching high-risk stores using tax and business databases. A high-risk store is one that is located at the site of a previously disqualified store. There are also criminal penalties for falsification.

Officials at the FNS informed us that, when actions are taken against fraudulent retailers, the agency informs the state administrative entity so that the state may review other transactions at those retailers. Several financial institutions have also reported owners/operators of licensed stores with unusual activity, particularly stores receiving large volumes of food stamp related credits and making subsequent large cash withdrawals from their accounts.

State Fraud Prevention Efforts: DPW reviews reports from the EBT vendor each month. The three areas on which DPW concentrates that can indicate fraud are even dollar transaction amounts, high dollar transactions, and out-of-state transactions.⁹ DPW reports to the Office of Inspector General (OIG) any instances when an account's subtotal over a three-month period is \$500 or greater at the same store. Reports of anomalies are forwarded to the OIG every month.

⁹ As stated above, DPW is also concentrating on reviewing excessive numbers of replacement Access cards.

OIG reviews these cases for SNAP and, where appropriate, conducts field investigations and prosecutes cases, either civilly or criminally. OIG also conducts investigations for TANF and MA. The OIG receives referrals from both DPW and the public, which can be up to 16,000 complaints per year, about a quarter of which result in an investigation. Field investigations assist DPW to administer benefits appropriately. For example, they might get a tip that a husband, who was previously recorded as unemployed, now has a job but has not reported the change in household income. OIG will investigate and forward the information to the case worker to determine if the recipient should be prosecuted. OIG also reviews overpayments to determine if they were fraudulent or not (if the overpayment is under \$10, no collection efforts are pursued).

In addition, although investigating and prosecuting retailers has traditionally been a federal responsibility, the USDA is working with the Pennsylvania OIG to approve the state also investigating retailers on the state level. According to an OIG official, currently the OIG works in conjunction with the USDA-FNS and the USDA-OIG to pursue recipient investigations, with the USDA's role being to investigate the retailer. There are certain parameters that must be met for the USDA to approve the state to begin conducting investigations on the retailers, one of which is to have a state statute for SNAP trafficking fraud, which Pennsylvania has at 18 Pa. C.S.A. §7313. Additionally, the USDA must approve a formalized plan which, upon approval, the PA OIG would be able to engage other Commonwealth law enforcement entities to investigate retailer SNAP trafficking, with the OIG acting as lead agency. The OIG is in discussions now with the USDA to create such a plan for approval, but the OIG reports facing difficulty in implementing this plan due to lack of funding for additional staff to take on the new role.

As shown in Exhibit 2, 28,475 fraud investigations occurred in the Commonwealth in FFY 2010, the large majority of which (24,591) were pre-certification investigations, which occur before an applicant is deemed eligible to receive benefits. Pre-certification investigations¹⁰ prevent fraud at intake and before a dollar loss can occur and can result in hearings or prosecutions that lead to a client's disqualification from the program. The remainder of the investigations consisted of post-certification investigations,¹¹ which can result in an administrative disqualification hearing or prosecution. This in turn can lead to disqualification of the individual who committed an intentional program violation and the establishment of a claim to recover the overissuance. The USDA shows \$2,567,604 in fraud dollars determined by post-certification investigations in Pennsylvania. Exhibit 2 also shows investigation figures for selected other states.

¹⁰ Pre-certification investigations are those that occur before a person is certified to receive SNAP benefits. Investigators assist in front-end detection by acting on referrals in suspicious cases and probing more deeply into a client's circumstances.

¹¹ Post-certification investigations are those that occur after a recipient has been receiving SNAP benefits.

Exhibit 2

**SNAP Recipient Fraud Investigations Other State Contiguous and Similar to Pennsylvania
FFY 2010**

State	Pre-Certification Investigations -		Post-Certification Investigations -		Post-Certification Investigations - Positive	Total All Investigations	Fraud Dollars Determined by Post-Certification Investigations
	Negative	Positive	Negative	Positive			
Delaware	1,495	0	61,986	16		\$ 33,840	
Florida	2,180	14,241	31,149	4,071	51,641	5,736,537	
Illinois	1,573	1,716	299	428	4,016	2,403,985	
Maryland	0	0	522	106	628	250,955	
Michigan	865	1,030	990	2,840	5,725	6,266,771	
New Jersey	1,657	1,233	2,802	4,858	10,555	3,038,646	
New York	100,487	41,939	12,722	16,203	171,351	7,157,150	
Ohio	1,643	1,217	16,697	2,336	21,983	2,980,631	
Pennsylvania	13,099	11,420	2,732	1,224	28,475	2,567,604	
Virginia	298	506	8,345	1,540	10,689	2,911,116	
West Virginia	18	17	1,014	546	1,959	726,888	
Wisconsin	639	487	324	648	2,098	1,922,526	

The OIG's Bureau of Fraud Prevention and Prosecution investigates and prosecutes welfare fraud on behalf of DPW. This is for not just the SNAP program but also for TANF, Medical Assistance, Long-Term Care, LIHEAP, Subsidized Child Care Program, and MATP. The OIG does not break out operating data for each of these programs but reported to us that nearly \$15 is recovered in cost savings and collection for every dollar spent by the Bureau on welfare fraud investigations and prosecutions. (For benefit programs that are partially or fully funded by the federal government, the savings generated by enhanced fraud efforts do not necessarily accrue to the Commonwealth.)

Additionally, in Pennsylvania it is a crime under 18 Pa.C.S.A. §7313 to make an unauthorized sale or exchange of federal food stamps, coupons, or SNAP Access cards to be used in exchange for unauthorized merchandise. The crime is a third degree felony if amounts involved are \$1,000 or more, or a first degree misdemeanor if less than \$1,000.

TANF Fraud: TANF recipients use Access cards to obtain cash benefits at ATM machines and at any retailer's point-of-sale devices that accepts QUEST. TANF fraud may occur in various ways. A recipient can:

- Misrepresent circumstances in order to be eligible for or to receive more benefits than would be received based on actual circumstances. This includes misrepresenting who is in the household; the income of people in the household; living expenses; or other circumstances that impact eligibility and monthly benefits.
- Receive more benefits than eligibility allows, and it appears that the recipient either made an intentional misstatement about living circumstances that caused the incorrect benefits or intentionally failed to reveal information that impacts eligibility.
- Receive duplicate benefits from another state.

Given the nature of most TANF fraud—that it occurs at the point of determining eligibility for benefits—there appears little opportunity for magstripe EBT cards, smart cards, or photo IDs to assist in preventing or detecting this type of fraud. DPW officials agreed that, because TANF fraud is mainly committed at application, it is unlikely that additional identifying information on an EBT card would have any significant impact.

Medicaid (Medical Assistance) Fraud: A National Health Law Program fact sheet regarding the use of smart cards in Medicaid programs estimated that only about 10 percent of the total Medicaid fraud is by recipients and that 80 percent is committed by medical providers, with the remaining 10 percent by others, such as insurers. Examples of provider fraud include: billing for services not actually per-

formed, billing for a more expensive service than was rendered, billing twice for the same service, or providing medically unnecessary services.

As such, the type of fraud most frequently committed in the MA program is not likely to be prevented with a card that only provides enhanced information about the recipient. The DPW officials we spoke to agreed that there is much more fraud on the provider side and that additional identifying information on the Access card would not address this problem.

To combat provider fraud, every state has a Medicaid fraud control unit which, in Pennsylvania, is housed within the Office of the Attorney General.¹² The main focus of this unit concerns providers such as physicians, dentists, mental health clinics, drug and alcohol clinics, hospitals, and health maintenance organizations. The unit is funded with 75 percent federal dollars and 25 percent state dollars.

WIC Fraud: One form of WIC fraud involves deception through concealment, where the participant knowingly misstates or covers up information or falsifies records in order to misleadingly receive more benefits than entitled. WIC fraud can also take two other forms, called trafficking and dual participation. Trafficking is where a participant illegally exchanges WIC benefits for cash or non-food items from a retailer or another individual; dual participation entails a participant simultaneously receiving benefits at more than one WIC local agency.

As with SNAP, retailers can also participate in WIC fraud by buying WIC checks for cash, accepting WIC checks for food that is not approved, accepting WIC checks as payment for past purchases, accepting WIC checks for credit, accepting WIC even though the retailer is not WIC authorized, and overcharging for WIC food.

As noted previously, in Pennsylvania, WIC recipients receive their benefits through paper checks and vouchers, not EBT cards. In 2010, the Department of Health issued a Technology Recommendation Paper assessing the possibility of using either a magstripe EBT or an offline smart card system for distributing WIC benefits. The paper recommended that the WIC program in Pennsylvania adopt an offline eWIC system where recipients are issued a smart card imbedded with a microchip. The microchip holds the WIC benefits information, which is accessed by the store cash register without requiring a network to access a centralized database at the time of the transaction. DOH plans to implement such a system by 2017.

¹² Recipient fraud is generally left to local district attorneys to prosecute.

IV. Biometric Smart Cards and Photo IDs Would Likely Face Legal Challenges, Are Costly to Implement, and Would Provide Relatively Little Additional Security Against Identity Fraud

While biometric smart cards (e.g., cards containing a digital fingerprint) and photo IDs provide an additional degree of security from identity fraud, they also present substantial legal, financial, and practical challenges.

Smart Cards

The term “smart card” is generally used to describe a pocket-sized card with embedded integrated circuits. Smart cards can store information, carry out local processing on the data stored, and perform complex calculations. These cards can be either “contact” cards (which require a card reader) or “contactless” cards (which use radio frequency signals to operate). Biometric smart cards are cards that contain digital information, typically fingerprint traits, which can recognize and authenticate the cardholder’s identity.

Smart cards with embedded microprocessor chips contain an operating system and one or more applications. Rather than simply housing static data as the magnetic stripe cards do, smart cards can interact with terminals and exchange information that validates both the card and the terminal. Smart cards also include various security measures to reduce counterfeiting and the fraud that frequently occurs with lost or stolen magnetic stripe cards.¹³ Smart cards that are lost or stolen can be deactivated by a central server sending the information to all authorized vendors, but changes to benefits typically requires the physical presence of the card (and cardholder). For a public assistance card, this would presumably occur at a WIC clinic or DPW county assistance office. In contrast, with magnetic stripe cards, benefits can be modified directly on the central EBT host without the card or cardholder being present.

Smart cards differ from magstripe EBT cards in that the microchip in the card contains a recipient’s benefits information and is accessed by the store cash register terminal without requiring a network at the time of the transaction. This means a recipient can still shop in the event that the network is down, whereas magstripe EBT cards require that the store be able to make a network connection. In contrast, smart card readers typically communicate with host servers once a day

¹³ For additional information, see “What Makes a Smart Card Secure?” by the Smart Card Alliance, October 2008.

in batch mode, which has much less stringent requirements for uptime and response time than does an online interface.

Although smart cards are not currently in wide use in the United States, several major credit card issuers, including Visa and MasterCard, have announced their intention to move to smart card systems,¹⁴ which will be accompanied by a shift in fraud liability in October 2015. Currently, if fraud occurs with a credit card, liability for that fraud is shared between merchants and card issuers. Beginning in October 2015, if merchants do not have smart card readers to process their customers' purchases, the liability for fraud will lay 100 percent with the merchant. If the merchant is equipped with a smart card reading device, however, card issuers will assume 100 percent liability.

An industry representative informed us that many point-of-sale card reading devices can be configured to accept both EBT cards and smart cards and that those types of readers are the only ones that are being manufactured at present.¹⁵ These readers cost approximately \$150 each.

Use of Smart Cards in Public Assistance Programs

We were unable to find any U.S. state that currently uses smart card technology on a statewide basis to provide social service benefits in the SNAP, TANF or Medicaid programs. Some states (e.g., Wyoming, Texas, and New Mexico) do, however, use smart cards (nonbiometric) in the WIC program. Legal restrictions, technology challenges, and costs are all key obstacles to the wider use of smart card technology in public benefit programs.

Legal Restrictions and Smart Card Initiatives in Other States: Under federal law each state's EBT system for SNAP benefits must be interoperable and portable. This means beneficiaries must be able to use their cards in every state. Two states, Ohio and Wyoming, were given federal exemptions to the "interoperable and portable" requirement because both of these states were using or in process of implementing smart cards for their SNAP programs before the mandate. Both, however, have since abandoned their smart card systems and are using magstripe EBT cards.

In Ohio, the same type of card was already being used in the WIC program. The cost of the smart card program was not an initial concern. To address interoperability concerns, Ohio was willing to purchase card readers for vendors in

¹⁴ An industry representative informed us that some U.S. card issuers are already starting to issue smart cards to select groups of their customers, especially those that travel often to Europe, where smart cards are prevalent.

¹⁵ The representative of one smart card system manufacturer told us that Wal-Mart has upgraded to the dual point-of-sale card readers that can read both EBT and smart cards.

adjacent states that expressed interest. However, interoperability problems and the cost of smart cards became a concern, and they abandoned the project. Ohio now uses magnetic stripe cards to distribute SNAP benefits.

The Wyoming WIC program was also using smart cards when the state agreed to be a pilot state for using smart cards for SNAP benefits. An official there said that they liked the smart cards because of their versatility and security features. However, Wyoming also abandoned smart cards for the SNAP program due to cost factors and incompatibility with other states.

As of May 2012, Wyoming, Texas, and New Mexico had established statewide programs of smart card usage for the WIC program. In Georgia and New York, legislation was introduced to initiate smart card programs, but never passed. In 2004, Texas initiated a pilot program using biometric (fingerprint) smart cards in its Medicaid program, but the program was never implemented statewide, in part because it was unable to determine the extent to which the pilot program actually reduced recipient identity fraud. Texas opted to use magnetic stripe cards instead.¹⁶

In North Carolina, legislation mandated smart card use for Medicaid recipients in the state.¹⁷ The Division of Medical Assistance within North Carolina's Department of Health and Human Services is in the process of developing the RFP for a smart card system. The system will first begin with a pilot program, with implementation intended for the whole state. Vendors must show that their smart card systems will be compatible to add other public assistance programs should the state decide to do so in the future.¹⁸ A state official informed us that the program is designed to reduce fraud and abuse by eliminating phantom billing and ensuring that the person on the card is the recipient receiving care with an as yet undetermined biometric.

Smart Card Costs May Exceed the Additional Security Benefits Derived.

One of the most obvious benefits of smart cards is the security they offer over magnetic stripe cards. Magnetic stripe cards can be easily altered, rewritten, or cloned. While PIN numbers provide a degree of protection, oftentimes people choose PIN numbers that are easy to guess (e.g., their birth date). Thieves can also obtain PIN numbers through false keypads, cameras focused on the keypad, or simply by observing an unsuspecting user at an ATM or other device. Although smart card users also typically use PIN numbers, the account and other information is stored in a

¹⁶ In 2011, the Texas General Assembly passed a bill (HB 2292) mandating the Human and Human Services Commission conduct a study of the effectiveness of advanced identification technologies including biometrics and smart cards, in six Texas counties. HHSC contracted with International Biometric Group to conduct this study.

¹⁷ In North Carolina, the original bill included requirements for both fingerprints and a photo on the smart card, but the final bill did not include those requirements.

¹⁸ Vendors will also have to demonstrate how systems will be implemented, i.e., how prepared providers are to use recipients' smart cards.

chip on the card, which makes it much less susceptible to being cloned or copied, and the chip itself has additional security measures to prevent unauthorized use.

While the enhanced security features of a smart card are significant for commercial cards and accounts, stealing information off the magnetic stripes of EBT cards used to distribute public assistance benefits would appear to be a less attractive target for criminals. Criminals who steal from a commercial debit card can potentially withdraw thousands of dollars from an ATM machine or make thousands of dollars in store transactions before the card is reported stolen or the bank notices the potential theft. Public assistance cards, on the other hand, typically have relatively low amounts available for cash withdraws (maximum monthly TANF cash assistance benefits are typically in the \$300-\$400 range), and SNAP cards can only be used to purchase food, again at relatively low dollar amounts (typically in the \$200-\$300 per month range).

Also, as noted previously, much of the fraud in the SNAP, TANF, and MA programs is committed at the point of determining eligibility or by the participating store or provider. More secure recipient identity cards would do little to prevent these types of fraud. However, smart cards, if also issued to providers, do have the potential to deter certain types of provider fraud. For example, the Medicare Common Access Card Act of 2011 (S. 1551 and H.R. 2925) would establish a pilot program to develop a secure Medicare card using smart card technology to protect seniors' personal information, prevent fraud, and speed payment to doctors and hospitals. The Secure ID Coalition estimated that upgrading the Medicare system with smart card technology could save American taxpayers \$30 billion or more per year in fraud and waste reductions. According to the Coalition, the key to preventing fraud is that both the beneficiary and the health care provider or supplier would have to present their Medicare Common Access Card (CAC) for a transaction to be verified; simply having the beneficiary's name and Medicare number would not be sufficient to bill Medicare. By healthcare providers and suppliers facing more stringent identity verification measures, such as identity checks, fingerprints, and a secure digital photograph encrypted in the provider or supplier ID card, fraudulent billings can be reduced.

We spoke to both an organization that represents the smart card industry as well as a manufacturer of smart cards and smart card systems to assess the likely cost of a smart card system. Although the cost of smart cards is lower than the cost of the photo cards (discussed below), they still would be significantly more expensive than the \$.23 cost of each EBT card issued in Pennsylvania. Both of the representatives with whom we spoke estimated that each smart card would cost approximately \$1 to \$1.50, or about 5 to 7 times more expensive than the current Access card. Also, smart card readers cost about \$150 each, which would be an additional expense to stores that do not already have smart card readers. The cost to purchase cards and readers would be only part of the costs of actual implementation, and the

investment required to migrate to an infrastructure capable of supporting a smart card with a microchip would be substantial. We, however, were unable to estimate the total costs of such a system.

Additionally, smart card standards are still evolving, and a change in card capabilities can lead to significant reprogramming of the devices that interface with the card. Use of this technology is new in most retail environments and will require technology integration and vendor training.

Use of Biometrics

Various biometric data has been suggested to use on EBT cards to enhance their security. Senate Resolution 322 specifically cited the study consider the feasibility of photographs and fingerprinting in connection with issuance of benefits and EBT cards.

Photos on EBT Cards: Federal law allows states to require an EBT card to contain a photograph of one or more household members. However, if an agency does adopt this requirement, it must “establish procedures to ensure that any other appropriate member of the household...may utilize the card.”

Pennsylvania is among several states considering using photographs on EBT cards. Section 414 of the Public Welfare Code authorizes DPW to create, in geographic areas where the department determines it to be cost effective, the Assistance Recipient Identification Program. The program would require any person currently receiving or applying for assistance to participate. The program would identify a recipient using “available technological means” that may include two-digit finger imaging. HB 392 would add a requirement to place a photograph on each EBT card and any other benefit card.

Other states are also considering legislation to introduce photos or other biometrics on their EBT cards. Maine would require a photo of the head of household on EBT cards and restrict use of the card to the head of household. Minnesota would require the same and, along with Idaho, also require the head of household to show separate photo identification. Illinois, Michigan, and North Carolina would require a photo on the card and allow the head of household and one other person to use the EBT card. Arizona would require the head of household photo and restrict use to that person, as well as requiring additional identification. Legislation in New Hampshire would require a SNAP photo identification card, separate from the EBT card that could be used by any household member. Another Idaho proposal would require each SNAP household to have an identification card listing names and authorized representatives along with birthdates that would have to be shown at a retailer’s request. Most of these proposals, however, would not appear compatible with either the federal requirements that any member of the household may

use the EBT card for SNAP purchases or the requirement that SNAP recipients are to be treated no differently than other consumers.

When we spoke to DPW about using photos on EBT cards, officials there indicated that the cost of putting photos on cards would be higher than any fraud reduction that could be realized. DPW also noted that currently any member of the household can legally use the Access card for purchases. A photo would jeopardize this convenience, and could violate a federal rule that states that retail food stores may not single out EBT users for special treatment in any way. DPW also noted that because retail clerks rarely handle cards at the point of sale (customers generally swipe their own cards at stores), it is unlikely the store clerk would ever see the photo on an EBT card.

The cost of producing photo EBT cards is a major obstacle, as it is much higher than the cost of either magnetic stripe or smart cards. Based on New York State's current contract, DPW estimates that photo cards for benefits recipients in the Commonwealth would cost about \$8 each depending on the volume and type of card chosen. DPW currently has over 2 million Access cards in circulation, so if each one was replaced with a photo ID card, costs could be in the range of \$16 million. Regardless of the type of card, there are additional administrative costs, which are currently \$3.41-\$3.64 in Pennsylvania, depending on whether the card is issued from a county assistance office or issued from a central location by the state's EBT vendor.

The State of New York opted to put photos on cards for TANF and some Medicaid recipients and expected that photos could be a deterrent to fraud. An official told us that the state is in the process of reviewing the use of photographs on its EBT cards.

Fingerprinting: Biometric recognition refers to automated methods to accurately recognize individuals based on distinguishing physiological and/or behavioral traits through a pattern-matching system. Technologies used in biometrics systems include recognition of fingerprints, faces, vein patterns, irises, voices, keystroke patterns, and signature dynamics. Of these, digital fingerprint recognition is most common. In addition to costs, drawbacks of biometric systems include their perceived invasiveness and the risks that can emerge when biometric data is not properly handled.

A National Health Law Project report states that federal policy requires that for a state to use finger-imaging procedures as part of Medicaid programs it must demonstrate that the procedures will be (1) cost effective and efficient in addressing a particular identified problem, (2) administered in a way that will minimize deterrents to enrollment and ongoing access to benefits for eligible individuals, and (3) more effective than other procedures. Also, anticipated savings cannot be achieved from eligible participants being deterred from applying for or retaining coverage as a result of the procedure. Finally, states must demonstrate that less intrusive

procedures would not adequately address the problem and that the finger imaging technology will be implemented in a manner that is not likely to deter eligible individuals from applying for or continuing to receive benefits.

A decade ago, at least eight states used mandatory fingerprinting as a tool to prevent duplicate applications and reduce food stamp fraud. This biometric has been generally used when an individual applies for public assistance to ensure that the person is not applying for duplicate benefits. Texas eliminated its fingerprint requirement in 2011, and California ended it as of January 2, 2012. New York eliminated this requirement in 2007, citing it as a stigma to those applying for and using benefits, but granted an exception to New York City. Arizona, however, continues the practice.

Texas is noteworthy because it conducted a pilot program using stored digital fingerprint traits on a smart card as part of a voluntary program in six counties involving approximately 228,000 Medicaid recipients. At the time of service, recipients showed their smart cards to the providers who inserted the cards into point-of-service devices that accessed the encrypted data contained on the cards. The recipients then placed an index finger on a biometric scanner which compared their actual fingerprint with the traits stored on the card. If the fingerprints matched the traits, the recipient's Medicaid eligibility was verified. However, the evaluation of the pilot program was unable to determine the extent to which the fingerprint process actually reduced recipient identity fraud, and the biometric smart card was dropped in favor of a magnetic stripe card.

According to a *Governing.com* article, critics of fingerprinting say it is too costly for governments and has never been a proven deterrent of fraud. And with many more people becoming eligible for assistance programs, the elimination of fingerprinting helps governments to process applications more quickly, thus saving money in staff resources and delivering assistance more quickly.

A literature review by the Food Research and Action Center found that “stigma surrounding assistance programs has long been identified as a barrier to participation in the Food Stamp Program.”¹⁹ To help reduce stigma, federal SNAP regulations prohibit retail food stores from singling out EBT users for special

¹⁹Negative perceptions of the program can lead to embarrassment or shame in inquiring or applying for food stamps, participating in the program, or using benefits at grocery stores. Research shows that stigma can deter new or potential applicants, cause dissatisfaction among participants, and even contribute to participants' exit from the program. These wide-ranging effects reflect stigma's presence in many aspects of the application and usage processes. In fact, the U.S. Government Accountability Office (GAO) found that stigma plays a major role in four of the five major steps to applying for and using food stamps. Many eligible nonparticipants did not want either to be seen shopping with food stamps, people to know they needed financial help, or to go to the welfare office. Most eligible nonparticipants simply did not want to rely on government assistance. Persons who had previously received food stamps also report various experiences with stigma related to the food stamp program, such as being treated disrespectfully either when using food stamps in a store or when they told people they received food stamps. Some went out of their way to shop at a store where nobody knew them or made other efforts to hide that they received food stamps.

treatment in any way.²⁰ The FRAC Report also noted that fingerprinting is problematic because it deters many legitimate food stamp applicants. Several reports indicated that fingerprinting can deter applicants for several reasons, including:

- a USDA publication found that fingerprinting was one of five factors with a definitely negative effect on participation;
- an Urban Institute study found that this effect was stronger on female-headed households with children, where participation dropped by 4.3 percent;
- a GAO report found that advocates saw fingerprinting as a barrier because it potentially requires applicants to make another trip to the assistance office;²¹ and
- another USDA study found that seniors feared the intrusiveness of the fingerprinting requirement.

Additionally, outside of the SNAP context, a 2012 fact sheet developed by the National Health Law Program indicated that biometric proposals also would stigmatize Medicaid recipients by making them stand out in public settings. The NHLP reported that there is generally a negative public perception around fingerprints because they are used by law enforcement agencies and may intimidate qualified people enough to keep them away from the Medicaid program.

The FRAC report also stated that it is unclear whether fingerprinting systems are cost effective or that fraud has been deterred enough to justify the expense. In California, the system initially cost \$31 million and a further \$11.4 million each year for continued operation. DPW estimated that fingerprinting for recipients of TANF, SNAP, and MA would cost more than \$55 million for upfront and implementation expense, with additional staff costs of about \$12 million annually, some of which would be due to elimination of online enrollment.

Virginia attempted a pilot program to require fingerprinting for Medicaid cards, but it has not been implemented, at least in part, because it depended on federal money that they did not receive. Moreover, the Centers for Medicare and Medicaid services determined that the biometric requirement would violate the Maintenance of Effort (MOE) requirements of the American Recovery and Reinvestment

²⁰ 7 CFR §278.2(b).

²¹ Traveling to the food stamp office can add to the costs associated with the application and recertification processes because transportation to the office is not always easy to arrange, and limited office hours can create obstacles for working households. The ability not to enter an office is especially important for seniors, individuals with disabilities, and working families.

Act of 2009 and the Affordable Health Care Act.²² Under the Maintenance of Effort provision states are to maintain current eligibility standards and procedures for Medicaid and CHIP until 2014, when new national eligibility standards take effect. The Center on Budget and Policy Priorities has said, however, that the Affordable Care Act MOE provisions do not block states' efforts or tools used to ensure program integrity and reduce fraud, waste, and abuse.

Finally, a senior policy analyst at RAND has written that critics argue that biometrics risk individual privacy, specifically, the loss of control of the intimacies of personal identity and knowledge about oneself. For example, "when biometrics like finger imaging, iris recognition or retinal scanning are used, [a person] discloses consistent and unique information about his identify [and] [w]hen other biometrics are used, at a minimum, he discloses accurate information about who he is." That is the goal for using biometrics: more accurately identifying persons using government programs. The risk to privacy comes into play with this because of the potential development of a secondary market for biometric information as well as the growing risk of incidental disclosure of further biometric information.

The RAND senior analyst explains that without legal restrictions, sharing of captured biometric identifiers could occur without an individual's knowledge or consent, similar to the sharing of mailing lists by data merchants. Also, he goes on, some research shows that biometrics may capture more than mere identification information, but also might disclose medical information, such as chromosomal disorders or possibly more common problems such as diabetes, arteriosclerosis and hypertension. Some also argue that the collection of biometric information from individuals by government agencies violates the Fourth Amendment's prohibition against unreasonable searches and seizures.

²² The Affordable Health Care Act requires states to maintain their eligibility levels for Medicaid (MA) until the Secretary of Health and Human Services deems the states' new health insurance exchanges to be fully operational, anticipated to be on January 1, 2014. The states were already subject to an MOE that was mandated by the American Recovery and Reinvestment Act (ARRA). This prohibited states from reducing eligibility levels for Medicaid through December 31, 2010. The Health Care reform MOE will effectively extend the ARRA MOE on Medicaid until 2014.

V. Appendices

APPENDIX A

PRINTER'S NO. 2231

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 322 Session of
2012

INTRODUCED BY VANCE, SCARNATI, PILEGGI, GORDNER, SCHWANK, BAKER,
ERICKSON, RAFFERTY, ARGALL, WAUGH, D. WHITE, ALLOWAY,
BOSCOLA, EARLL, MENSCH, WARD AND BRUBAKER, MAY 31, 2012

REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 31, 2012

A RESOLUTION

Directing the Legislative Budget and Finance Committee to study the Department of Public Welfare's usage of electronic benefit transfer cards as a means of conveying benefits and to analyze whether biometric smart cards containing a photograph and other identifying information would generate State savings, deter fraudulent activities and more efficiently transfer the payment to the recipient.

WHEREAS, The Department of Public Welfare issues electronic benefit transfer (EBT) cards, otherwise known as ACCESS cards, to eligible recipients of public assistance; and

WHEREAS, The ACCESS cards are used to convey benefits to recipients in the following programs: Supplemental Nutrition Assistance Program (SNAP), Special Allowance Program, Temporary Assistance for Needy Families (TANF) and General Assistance; and

WHEREAS, Recipients may access benefits at automated teller machines or point-of-sale machines when items are purchased in a store; and

WHEREAS, The Department of Public Welfare disbursed approximately \$5.7 billion in public assistance benefits through ACCESS cards during the fiscal years 2009-2010 and 2010-2011; and

Appendix A (Continued)

WHEREAS, Opportunity exists for selling or transferring ACCESS cards to noneligible individuals; and

WHEREAS, An audit in September 2011 raises significant questions regarding the monitoring, oversight and enforcement activities of the Department of Public Welfare with regard to the ACCESS cards; and

WHEREAS, An increasing number of this Commonwealth's residents are in need of public assistance; and

WHEREAS, The Commonwealth must ensure that only eligible recipients access benefits so that resources exist to provide benefits to all of those that are eligible; therefore be it

RESOLVED, That the Senate direct the Legislative Budget and Finance Committee to study the costs and benefits of providing each eligible recipient with a new ACCESS card containing additional identifying information; and be it further

RESOLVED, That the study consider the costs and benefits of ACCESS cards with varying degrees of information which may include the following:

- (1) photograph;
- (2) fingerprints; and
- (3) other personal details of the recipient;

and be it further

RESOLVED, That the study take into account any technology costs associated with the purchase of new equipment and ongoing expenses; and be it further

RESOLVED, That the Legislative Budget and Finance Committee examine the types of abuse that occur with the ACCESS cards and whether additional identifying information will stop the abuse; and be it further

RESOLVED, That the Legislative Budget and Finance Committee recommend whether any savings generated through enhanced identifiers offset the costs of ACCESS card modifications; and be it further

RESOLVED, That the Legislative Budget and Finance Committee report to the Senate the results of its findings and recommendations by November 30, 2012.

APPENDIX B

SNAP Participation in Contiguous and States Similar to Pennsylvania FFY 2010

<u>State</u>	<u>Population</u>	% Receiving <u>SNAP</u>	Persons <u>Participating</u>	Households <u>Participating</u>	SNAP Dollars <u>Issued</u>
Delaware	897,934	13%	112,513	50,507	\$ 171,155,272
Florida.....	18,801,310	14	2,609,185	1,370,563	4,416,942,533
Illinois.....	12,830,632	13	1,645,722	775,019	2,784,473,892
Maryland.....	5,773,552	10	560,848	265,796	877,975,713
Michigan	9,883,640	18	1,776,368	865,508	2,808,763,231
New Jersey.....	8,791,894	7	622,022	303,765	1,030,292,837
New York	19,378,102	14	2,757,836	1,463,135	4,984,900,302
Ohio	11,536,504	14	1,607,422	751,299	2,733,689,660
Pennsylvania.....	12,702,379	12	1,574,783	740,186	2,332,575,204
Virginia.....	8,001,024	10	786,157	364,825	1,213,496,417
West Virginia	1,852,994	18	341,156	154,886	486,939,521
Wisconsin	5,686,986	13	715,213	317,015	1,000,496,070

Source: Developed by LB&FC staff with data from the U.S. Census Bureau and USDA.

APPENDIX C

Response to This Report



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

NOV 15 2012

Mr. Philip R. Durgin
Executive Director
Legislative Budget and Finance Committee
P.O. Box 8737
Harrisburg, Pennsylvania 17105-8737

Dear Mr. Durgin:

This letter is in response to the Legislative Budget and Finance Committee's (LBFC) draft report "The Feasibility of Using Biometric Smart Cards or Photo ID Cards to Dispense Public Assistance Benefits," conducted pursuant to Senate Resolution 2012-322. The Department of Public Welfare (DPW) appreciates the opportunity to have worked with the LBFC staff in preparing this report and provide comments. LBFC was very thorough in their review, research, and evaluation of Electronic Benefits Transaction (EBT) cards and the alternatives. DPW is constantly striving to provide programs in the most efficient manner possible with the highest degree of program integrity. We are always mindful of our fiscal responsibility to Commonwealth taxpayers.

DPW offers the following comments on the draft report:

1. Page S1, paragraph #2: Please note that the WIC program is administered by the Pennsylvania Department of Health.
2. Page S2, paragraph #4: Comment: Normally, lower transaction costs are realized by the retailers/service providers and not the Commonwealth.
3. Page S4, paragraph #3: Comment: OIG currently has only three agents and a supervisor working on SNAP trafficking statewide. Findings of intentional program violations and/or convictions for trafficking result in program disqualification, which provides significant cost avoidance and a high return on investment. Additional funding is critical to increasing and enhancing these efforts.
4. Page S4, paragraph #3: Comment: While the General Assembly has enacted necessary legislation to allow OIG to investigate retailer fraud, in order for approval to be granted by USDA, a state plan would need to be submitted and approved, in addition to receipt of necessary funding, before implementation could take place.
5. Page 3, paragraph #2, sentence #3 under EBT Systems: Should say "county" instead of "country."¹
6. Page 5, sentence #1: The sentence states that there is a deposit. There is not a deposit in the traditional sense. There is a credit placed on the recipient's account. No money is actually drawn down from the federal government until a purchase is made.

OFFICE OF THE SECRETARY

P.O. BOX 2675, HARRISBURG, PA 17105 | 717.787.2600/3600 FAX: 717.772.2062 | www.dpw.state.pa.us

¹ LB&FC Note: This sentence refers to magnetic cards generally, not to the Access card.

7. Page 5, paragraph #4: SNAP disallows food considered ready to eat, not just those foods that will be eaten in the store.²
8. Page 6, first full paragraph: TANF benefits can be accessed at ATMs and also at point-of-sale (POS) terminals that accept QUEST.²
9. Page 10, paragraph #4, sentence #2: Should read: Replacement Cards:
....According to DPW, when an Access card is replaced, the replaced card is deactivated and cannot access the recipient's account and any benefits remaining on the account will be available immediately after the replacement card is pinned.²
10. Page 10: Comment: DPW requested that USDA allow the Commonwealth to increase the fees associated with replacement cards as well as charge that fee directly to the recipient rather than simply reducing benefits. USDA declined this request.
11. Page 11, paragraph #2, sentence #1: Should read: DPW reports that it is also reviewing excessive issuances of replacement cards.²
12. Page 11, replace paragraphs #4 and #5 with the following single paragraph: In February 2012, DPW began its own study of recipients who were flagged based on exclusive use in a non-contiguous state during the prior three months (November 2011 to January 2012). In May 2012, DPW issued the results of this initial review, which found 653 cases (of the 1,123 cases that were reviewed), or 58.1 percent, that were closed as a result of the review, meaning the recipients were removed from the program. The Department has continued to conduct these non-contiguous state reviews monthly. In July 2012, DPW added a study of recipients who were flagged based on exclusive use in a contiguous state during the prior three months (April 2012 to June 2012).
13. Page 11, footnote #8: Comment: Since that report was issued, DPW has provided the Department of the Auditor General with all EBT information it has requested.
14. Page 12, bullet 4: Comment: DPW actually provides cards with benefits to USDA investigators.
15. Page 15, paragraph #3, sentence #1: If this sentence is used to describe how a recipient obtains their cash benefit, and not part of a description of TANF fraud, it should read: TANF Fraud: TANF recipients use Access cards to obtain cash benefits at ATM machines and at any retailer's POS (Point-of-Sale) device that accepts QUEST.²

DPW agrees with the LBFC's assessment of the use of biometric smart cards or photo ID cards to dispense public assistance benefits. Please be assured DPW will continue to monitor pilot programs conducted by other states as recommended in the report as well as research any new technology that will reduce the opportunity for fraud on behalf of recipients or providers of publicly-paid services.

² LB&FC Note: The final report was changed to reflect this comment.

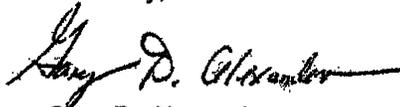
NOV 15 2012

Mr. Philip R. Durgin

-3-

Again, I appreciate the opportunity to provide comments on the LBFC report. If you have any further questions regarding the program or information provided in the report, please feel free to contact Mr. Neal Leshar, Director, Office of Legislative Affairs, at (717) 783-2554.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary D. Alexander", with a long horizontal flourish extending to the right.

Gary D. Alexander
Secretary

cc: Mr. Neal Leshar, Director, Office of Legislative Affairs
Ms. Lourdes R. Padilla, Deputy Secretary, Office of Income Maintenance