

Office of Administrative Hearings (OAH) Procedures Transmittal			Transmittal Number: 06-11
Distribution:			Date: August 23, 2006
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ALB OAH Staff <input checked="" type="checkbox"/>	UPS ALJs <input checked="" type="checkbox"/>	Upstate LDSS <input checked="" type="checkbox"/>	Subject: EBT Account Adjustment Program Coding Procedures
	SUP ALJs <input checked="" type="checkbox"/>	EBT Program	
NYC OAH Staff <input checked="" type="checkbox"/>	NYC ALJs <input checked="" type="checkbox"/>	NYC Agencies <input checked="" type="checkbox"/>	
	SUP ALJs <input checked="" type="checkbox"/>		

This transmittal is being released by the Office of Administrative Hearings (OAH) to document instructions regarding scheduling of fair hearings to review Food Stamp Notices of Action concerning the Electronic Benefit Transfer (EBT) Account Adjustment Program.

Occasionally, when a client redeems food stamps using the EBT system, a system error resulting from a malfunction in the redemption process occurs. The OTDA/DETS contractor for EBT, JP Morgan Electronic Financial Services, is responsible for overseeing system-error resolution and managing the adjustment process. Clients have 90 days from the alleged system error to initiate a claim regarding a duplicate debit transaction or other such error. The claim must be investigated and acted upon by JP Morgan within 10 days. Retailers may also request a review if a purchase transaction fails resulting in non-payment to the retailer.

OTDA/DETS in consultation with JP Morgan will issue notices to clients indicating the result of the review of the adjustment claims made by either the client or the retailer if the result has a negative impact on the client. Food Stamp recipients may request a fair hearing to review such notices. Retailers do not have standing to request a fair hearing. If a determination has been made to credit the appellant's account, no notice will be sent.

If a determination is made to deny a claim made by a client or to accept a claim of non-receipt of payment by a retailer, a notice will be sent to the client. The Food Stamp Notice of Action- EBT Account Adjustment Request will indicate whether the claim was Client Initiated or Retailer/Acquirer Initiated. If the claim was client initiated, the notice will indicate the requested amount has been denied. If retailer initiated, the notice will indicate that in order to correct the error a certain amount will be deducted from the client's EBT account as a lump sum and paid to the retailer.

Fair hearings requested to review these notices should be coded by Communication Intake Unit (CIU) staff as indicated below for scheduling on the LDSS calendar or the appropriate non-PA Food Stamp or Job Center calendar. Note there is a new agency code of SEBT to be used to notify the OTDA/DETS office that has responsibility for preparation of the evidentiary packet and eventual compliance with decision directives regarding this program.

Denial of client-initiated request for adjustment:

Agency: Upstate: LDSS/ **SEBT**
 NYC: NF__/**SEBT** or N0__/**SEBT**
 Action: FS DENY
 Category: SNA, FA or FS
 Subcategory: PAFS (as appropriate)
 Issue Code: 456

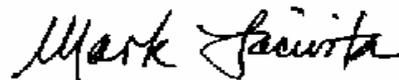
Reduction due to retailer/acquirer-initiated adjustment request:

Agency: Upstate: LDSS/**SEBT**
 NYC: NF__/**SEBT** or N0__/**SEBT**
 Action: FS REDU
 Category: SNA, FA or FS
 Subcategory: PAFS (as appropriate)
 Issue Code: 456

Any reduction issue, based on the retailer/acquirer-initiated notice, is subject to Aid to Continue if the request is made within 10 days of the date of the notice. Other non-EBT issues may be included with the EBT denial or reduction issue.

Once a client requests a fair hearing, a packet will be automatically sent to the client. OTDA has been granted a blanket waiver of appearance for these hearings. (See OAH Transmittal 06-10, Waiver of Personal Appearance Instructions for EBT Account Adjustment Program Representatives.)

If there are any questions with respect to this transmittal, you may contact your supervisor or Susan Fiehl at (518) 473-4779 or via email susan.fiehl@otda.state.ny.us.



Mark Lacivita, Director of Administration
 Office of Administrative Hearings



**Food Stamp Notice of Action – EBT Account Adjustment Request
 (Client Initiated)**

Notice Date:	Case Name & Address:
Claim Number:	
Case/CIN Number:	
Card Number:	

You called the EBT Customer Service Helpline and claimed that an error was made with your electronic benefit transfer (EBT) food stamp account and benefits were subtracted from your account by mistake. The details you reported in your claim about when and where the error occurred and the amount of the error are as follows:

Transaction Date/Time:
Location:
Amount:

The EBT system keeps complete records of every EBT transaction. Every report of an error of this kind is carefully investigated. We can only make a correction when we have proof that a **system error** has occurred that has unjustly debited your account.

Your request to have \$_____ added back into your account **has been denied.**

This action is taken in accordance with Federal Food Stamp Regulation 7 CFR 274.12(g)(4)(ii).

CONFERENCE RESOLUTION

If you do not agree with this decision we recommend that you call the NYS Food Stamp Hotline toll-free at 1-800-342-3009 to request a State EBT Bureau review of your claim denial. EBT staff will review your claim and conduct a phone conference with you in order to resolve the matter. If after having discussed this claim with State EBT staff you are still not satisfied, you may request a State administered fair hearing. Please be advised that if you do want a fair hearing, it must be requested within 90 days of the date of this notice. Calling for a phone conference is not the same as asking for a fair hearing. (For more information about fair hearings, please see the section below.)

STATE FAIR HEARING – You have **90** days from the date of this notice to ask for a fair hearing.

HOW TO ASK FOR A FAIR HEARING: You can ask for a fair hearing in **writing**, by **phone**, by **fax**, by **walk-in (NYC only)** or **online**.

Writing : Send a copy of both sides of this notice *completed* to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, P.O. Box 22023, Albany, New York 12202-2023. Please keep a copy for yourself.

- I want a fair hearing. I do not agree with the agency's action. (You may explain why you disagree below, but you do not have to include a written explanation.)

Phone: 800-342-3334 (PLEASE HAVE THIS NOTICE WITH YOU WHEN YOU CALL.)

Fax: Fax a copy of the front and reverse of this notice to: **(518) 473-6735**

Walk-in: Bring a copy of this notice to the New York State Office of Temporary and Disability Assistance at 14 Boerum Place, Brooklyn (1st Fl.), NY or 330 West 34th Street (3rd Fl.), NY, NY.

Online: Complete an online request form at: <http://www.otda.state.ny.us/oah/forms.asp>.

If you cannot reach the New York State Office of Temporary and Disability Assistance by phone, by fax or online, please write to ask for a fair hearing before the deadline.

WHAT TO EXPECT AT A FAIR HEARING: The State will send you a notice that tells you when and where the fair hearing will be held.

At the hearing, you will have a chance to explain why you think our decision is wrong. You can bring a lawyer, a relative, a friend or someone else to help you do this. If you cannot come yourself, you can send someone to represent you. If you are sending someone who is not a lawyer to the hearing instead of you, you must give this person a letter to show the hearing officer that you want this person to represent you at the hearing.

At the hearing, you and your lawyer or other representative will have a chance to explain why we are wrong and a chance to give the hearing officer written papers that explain why we are wrong.

To help you explain at the hearing why you think we are wrong, you should bring any witnesses who can help you. You should also bring any papers you have, such as: pay stubs, leases, receipts, bills, doctor's statements.

At the hearing, you and your lawyer or other representative can ask questions of witnesses which we bring or which you bring to help your case.

LEGAL ASSISTANCE: If you think you need a lawyer to help you with this problem, you may be able to get a lawyer at no cost to you by contacting your local Legal Aid Society or other legal advocate group. For the names of other lawyers, check your Yellow Pages under "Lawyers".

DOCUMENTATION: After you request a hearing, a copy of all documentation in your file which we will give to the hearing officer at the hearing will be provided to you within a reasonable time before the date of the hearing.



**Food Stamp Notice of Action – EBT Account Adjustment Request
 (Retailer/Acquirer Initiated)**

Notice Date:	Case Name & Address:
Claim Number:	
Case/CIN Number:	
Card Number:	

An EBT system error occurred on a purchase made with your EBT food stamp benefits. At the time the purchase was made, the EBT transaction failed and no benefits were taken from your EBT account and paid to the food store or retailer. The error occurred at the food store or retailer named in the details below. The date, time and amount of the original purchase also are included in the details below. We have been asked to correct this error.

The Details of the purchase are as follows:
Transaction Date/Time
Location:
Amount: \$

The EBT system keeps complete records of every EBT transaction. Every report of an error of this kind is carefully investigated. We send these notices and make these corrections only when we have proof that a system error has occurred.

In order to correct this error, \$ _____ will be taken from your electronic food stamp benefit account on (Month, Day, Year) and paid to the food store or retailer.

If you do not have enough benefits in your account to repay the amount of the error, we will take it from your account when your next month's benefit is deposited in your EBT account.

The above decision is based on Federal Food Stamp Regulation 7 CFR 274.12(g)(4)(ii).

This Notice:

- Does **not** affect your eligibility for food stamps or the amount of food stamp benefits you are eligible to receive.
- Does **not** affect your Temporary Assistance and/or Medicaid case.

If you do not agree with this action you can:

- Call the NYS Food Stamp Hotline @ 1-800-342-3009 to discuss this notice.
- You may also request a State administered fair hearing.

STATE FAIR HEARING – You have **90 days** from the date of this notice to ask for a fair hearing.

KEEPING YOUR BENEFITS THE SAME: If you request a fair hearing within **10 days** of the date of this notice, your benefits in your EBT account will not be removed until the fair hearing decision has been issued. If you lose the fair hearing, the benefit amount will be removed from your account without further notice.

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