



December 29, 2023

Consumer Intake – Financial Data Rights
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington DC 20052

Sent via email to 2023-NPRM-Data-Rights@cfpb.gov

RE: Docket # CFPB-2023-0052 Required Rulemaking on Personal Financial Data Rights

The United Council on Welfare Fraud (UCOWF) is grateful for the opportunity to submit our comments to the Consumer Financial Protection Bureau (CFPB) proposed rulemaking regarding the 2010 Dodd-Frank Act. As the exclusive national organization with a singular focus on detecting, preventing, prosecuting, and recovering welfare fraud, we deal directly with fraud, waste, and abuse impacting public assistance programs which utilize the Electronic Benefit Transfer (EBT) benefit issuance method. Our member jurisdiction includes the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), and the Women Infant Children (WIC) programs.

Specifically, UCOWF would like to address the CFPB inquiry regarding the inclusion of EBT in the proposed rule. We strongly encourage caution here. While most state laws include EBT in the definition of a credit card for fraudulent usage and consumer protections, EBT has not been included in CFPB regulatory framework. While we wholeheartedly endorse consumer protection in the EBT market, our member experience with waste, fraud, and abuse of EBT requires we share issues that must be considered prior to including EBT.

EBT differs from consumer credit cards in that it is the electronic system that allows state and county welfare department to issue primarily federally funded benefits via a magnetically encoded payment card – a system that has been used since 2004, predating the Dodd-Frank Act. Had Dodd-Frank intended to include EBT, they would have done so at that time. EBT was never intended to be a financial banking system of credit/debits, merely an upgraded delivery system to eligible recipients from the prior paper “food stamps.”

Benefits on EBT are also restricted to specific regulations not applicable to consumers using a credit/debit card. For example, SNAP is not available overseas and can only be used within the United States and designated territories. This ensures protection from international organized criminals from illegally accessing U.S. taxpayer funds, whether through fraudulent applications or from account takeover. Prohibition of international access is critical to program integrity and should remain, despite international usage rights that pertain to electronic banking (credit/debit cards).

UCOWF members also are aware of third-party products that access EBT portals on behalf of recipients. However, it should be noted that EBT service providers (FIS eFunds, Conduent, Solutran, and Inmar) already provide these customer services. Furthermore, state agencies administering programs maintain customer service portals to easily allow clients to access benefits and balance inquiries. These EBT providers are directly accountable to the government agencies through strictly monitored contracts with corrective action for

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performance. Should the CFPB believe the provider service is unacceptable, avenues for redress are already established.

Identity theft (through skimming devices) and Account Takeover are real issues currently impacting EBT users. However, inclusion of EBT in the proposed rulemaking will do nothing to address these issues. To the contrary, by allowing any third party to access recipient EBT accounts, identity fraud and account security becomes a larger concern.

Some third-party companies provide “free” services to EBT customers and are actively engaged in lobbying efforts to legitimize their industry. However, once that door is opened, welfare recipients (“consumers”) become a greater target for fraudsters through social engineering, smishing, phishing, emails, or even cloning the appearance of a legitimate business. Unfortunately, these third-party businesses are not held to any security standards, are not required to utilize anti-fraud or identity protections, and become a tool for fraudsters. In fact, several states had active fraud alerts about these companies and actively blocked third parties from accessing EBT accounts. The “EBT Skimming/Account Takeover” issue became a national epidemic only after EBT vendors opened access to third party applications. Skimming has been an issue for EBT cards used at ATM machines – the manifestations of third parties and lack of “know your customer” identity verifications have become a nationwide issue that hides behind “skimmers.” By requiring third party access to EBT accounts in this rulemaking, without specific protections not apparent in this proposal, will only serve to make legitimate recipients a greater target.

Any comments heralding how a third-party provides better and faster service is merely corporate driven sound bites and advertising that expands consumer vulnerabilities and promotes their own financial self-interests, not those of consumers.

And finally, and perhaps most importantly, most of these third-party services accessing EBT seek to monetize welfare recipient (consumer) activities, selling non-PII usage information to advertisers and corporations. We believe that low-income EBT recipients should not be victims of advertising agencies, including any EBT transaction histories and usage patterns.

In summary, UCOWF feels that well intentioned consumer protection of EBT customers is best served in separate rulemaking or legislation to specifically address concerns and rights as they exist in this market.

If you have any questions, please contact us at UCOWFmail@gmail.com.

Sincerely,

Carrol Christian, UCOWF President

