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Sequence Number: 07-04-16  
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 File Date: 7/1/16

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Tennessee Department of Human Services
<b>Division:</b>	Family Assistance Division
<b>Contact Person:</b>	Catrina Hewlett
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 15 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	Catrina.Hewlett@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Jeffrey Blackshear
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 15 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee 37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	Jeffrey.Blackshear@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Tennessee Tower Building, Conference Room M – 3rd Floor		
Address 2:	312 Rosa L. Parks Ave.		
City:	Nashville		
Zip:	37243		
Hearing Date :	August 23, 2016		
Hearing Time:	9:00 -10:00 a.m.; 5:30 – 6:30 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	One Commerce Square Building, Conference Room B – 5th Floor		
Address 2:	40 South Main St.		
City:	Memphis		
Zip:	38103		
Hearing Date :	August 23, 2016		
Hearing Time:	9:00 -10:00 a.m.; 5:30 – 6:30 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Pellissippi State Community College, Training Room – 3rd Floor		
Address 2:	7201 Strawberry Plains Blvd.		
City:	Knoxville		

Zip:	37914		
Hearing Date :	August 23, 2016		
Hearing Time:	10:00 – 11:00 a.m.; 6:30 – 7:30 p.m.	___CST/CDT	<u>X</u> EST/EDT

Address 1:			
Address 2:			
City:			
Zip:			
Hearing Date :			
Hearing Time:		___CST/CDT	___EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1240-01-47	Non-Financial Eligibility Requirements Families First Program
Rule Number	Rule Title
1240-01-47-.16	Personal Responsibility Plan

Chapter Number	Chapter Title
1240-01-58	Electronic Benefits Transfer Card - Prohibited Uses
Rule Number	Rule Title
1240-01-58-.01	Purpose
1240-01-58-.02	Definitions
1240-01-58-.03	Prohibited Uses
1240-01-58-.04	Monitoring and Penalties

Chapter 1240-01-47  
Non-Financial Eligibility Requirements Families First Program

Amendments

Rule 1240-01-47-.16 Personal Responsibility Plan is amended by deleting part 9 under subparagraph (b), paragraph (1), and by substituting instead the following language, so that, as amended, paragraph (1), subparagraph (b), part 9 shall read as follows:

9. Agree to proper use of the electronic benefit transfer card, including agreement not to access public assistance benefits through an electronic benefit transfer card at:
  - (i) any point of sale device or automated teller machine located in any liquor store, casino, gambling casino, gaming establishment, or adult cabaret as prohibited under Chapter 1240-01-58; or
  - (ii) any point of sale device located in any tobacco store as prohibited under Chapter 1240-01-58.

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-202, 4-5-209, 71-1-103, 71-1-104, 71-1-105, 73-1-126, 71-3-192, 71-3-103, 71-3-104, 71-3-108(d)(2)(D), 71-3-152, 71-3-153 and 71-3-154; 71-3-158(d)(2)(D); 42 U.S.C. §§ 601 et seq., 42 U.S.C. § 603, 42 U.S.C. § 604(i); 42 U.S.C. § 607(c), (d) and (e); 42 U.S.C. § 608(a)(2), (3) and (12), 42 U.S.C. § 608(b)(3); 42 U.S.C. § 609(a)(14) and 42 U.S.C. §§ 654 and 657; 45 C.F.R. § 261.2, 45 C.F.R. § 261.12 and 45 C.F.R. § 261.14; and Public Acts of 1996, Chapter 950, §1115 of the Social Security Act; Deficit Reduction Act 2005 (Pub. L. 109-171 §§ 7101 and 7102, February 8, 2006); 71 Federal Register 37454 (June 29, 2006); and Acts 2007, Chapter 31.

Chapter 1240-01-58  
Electronic Benefits Transfer Card - Prohibited Uses

Amendments

Rule 1240-01-58-.01 Purpose is amended by deleting the paragraph in its entirety, and by substituting instead the following language, so that, as amended, Rule 1240-01-58-.01 shall read as follows:

1240-01-58-.01 Purpose.

The purpose of this Chapter is to prevent public assistance benefits, provided pursuant to the Families First/TANF program, from being used in any EBT transaction in any liquor store, casino, gambling casino, gaming establishment, adult cabaret, or tobacco store.

Authority: T.C.A. §§ 4-5-201 et seq.; 57-2-101(1); 71-3-126; 42 U.S.C. § 603; 42 U.S.C. § 608(a)(12).

Rule 1240-01-58-.02 Definitions is amended by adding a new paragraph (17), and by deleting paragraphs (11) and (13), and substituting instead the following language for paragraphs (11) and (13), so that, as amended, paragraphs (11), (13), and (17) shall read as follows:

- (11) "Knowingly" means that an EBT card user, merchant, or business entity has actual knowledge that the EBT card contains public assistance benefits and the ATM or point of sale device used for the illegal transaction is located in a liquor store, casino, gambling casino, gaming establishment, adult cabaret, or tobacco store (however, ATM use is permitted in tobacco stores). The term "knowingly" may be established by direct or circumstantial evidence of knowledge that the EBT card contains public assistance benefits and the ATM or point of sale device is located in a liquor store, casino, gambling casino, gaming establishment, adult cabaret, or tobacco store.
- (13) "Located in". An ATM, POS device, or other online system used for the withdrawal of funds or processing of payments is "located in" a liquor store, casino, gambling casino, gaming establishment, adult cabaret, or tobacco store, when the ATM, POS device, or other online system is located on any part of the merchant's business property, which is either owned or leased by the merchant.
- (17) "Tobacco store" means a licensed retail store that derives its largest category of sales from the sale of loose tobacco, cigars, cigarettes, pipes, and other smoking accessories.

Authority: T.C.A. §§ 4-5-201 et seq.; 4-51-102; 7-51-1102; 39-17-501; 39-17-1802(13); 57-3-101; 71-3-103; 71-3-126, 42 U.S.C. § 601 et seq.; 42 U.S.C. § 608(a)(12)(B).

Rule 1240-01-58-.03 Prohibited Uses is amended by adding a new paragraph (2) and renaming the old paragraph (2) as paragraph (3), and adding a new subparagraph (f) under the new paragraph (3), so that, as amended, Rule 1240-01-58-.03 shall read as follows:

1240-01-58-.03 Prohibited Uses.

- (1) It is illegal for any Families First/TANF recipient to knowingly use an EBT card to purchase any goods or services through a POS device or any other online system used to process payments or access public assistance benefits through an ATM or other online system used for the withdrawal of funds located in any of the following businesses:
  - (a) liquor store;
  - (b) casino;
  - (c) gambling casino;
  - (d) gaming establishment; or
  - (e) adult cabaret.

(2) It is illegal for any Families First/TANF recipient to knowingly use an EBT card to purchase any goods

or services through a POS device or any other online system used to process payments located in any of the following businesses:

- (a) tobacco store.
- (3) It is illegal for any person or business entity, or any agent or employee of the person or business entity, to knowingly accept public assistance benefits from an EBT card for the purchase of any goods or services in the following locations:
- (a) liquor store;
  - (b) casino;
  - (c) gambling casino;
  - (d) gaming establishment;
  - (e) adult cabaret; or
  - (f) tobacco store.

Authority: T.C.A. §§ 4-5-201 et seq.; 7-51-1102; 39-17-501; 57-3-101; 71-3-126, 42 U.S.C. § 608(a)(12)(B).

Rule 1240-01-58-.04 Monitoring and Penalties is amended by deleting paragraph (1) in its entirety, and by substituting instead the following language, so that, as amended, paragraph (1) shall read as follows:

- (1) Any Families First/TANF recipient or caretaker must submit to the Department a signed Personal Responsibility Plan (PRP) acknowledging his/her understanding that it is illegal to knowingly use an EBT card containing public assistance benefits at any POS device, ATM, or other online system used for the processing of payments or withdrawal of funds located in any liquor store, casino, gambling casino, gaming establishment, adult cabaret, or tobacco store (however, ATM use is permitted in tobacco stores) to purchase any goods or services as described in this Chapter.

Authority: T.C.A. §§ 4-5-201 et seq.; 71-3-126; 42 U.S.C. § 608(a)(12).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

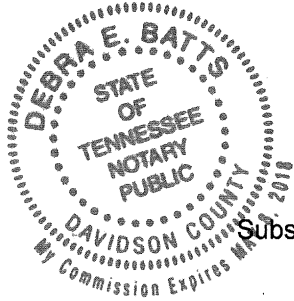
Date: 6/21/16

Signature: *Catrina Hewlett*

Name of Officer: Catrina Hewlett

Assistant General Counsel

Title of Officer: Tennessee Department of Human Services



Subscribed and sworn to before me on: June 21, 2016

Notary Public Signature: *Debra E. Batts*

My commission expires on: May 8, 2018

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Filed with the Department of State on: 7/1/16

*Tre Hargett*  
Tre Hargett  
Secretary of State

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