

TESTIMONY OF MEAGAN SWAY

**An Act To Require Electronic Benefits Transfer Cards To Be Printed with  
the Beneficiary's Photograph**

LD 287 – Ought Not To Pass

JOINT STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES

March 23, 2021

Good morning Senator Claxton, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services. My name is Meagan Sway and I am the policy director of the ACLU of Maine, a statewide organization of approximately 7,000 members. The ACLU is dedicated to the principles of liberty and equality embodied in the U.S. and Maine Constitutions. In furtherance of this mission, we ask you to vote against LD 287.

LD 287 would change the law so that all EBT cards must contain benefit recipients' photograph, rather than allowing it if the recipient wishes to have their picture on the card. This is not in alignment with federal regulations and is potentially expensive, ineffective, confusing, and stigmatizing. Our discussion here focuses on SNAP EBT cards, for which there is the most data from other states to learn from, but many of the arguments are transferrable to the other benefits for which the department wishes to push onto EBT cards with photographs.

We are concerned that, as written, the requirement that the department place a person's photograph on an EBT card is not in alignment with federal law. The implementing regulations for SNAP EBT cards contain multiple requirements that must be met before a state may implement photographs on an EBT card, and "[p]rior to implementation, State agencies must demonstrate to FNS successful administration of SNAP based on SNAP performance standards."<sup>1</sup> For SNAP benefits, at least, the requirement that the department use photographs on EBT cards is therefore putting the cart before the horse: the department must apply to the USDA's Food and Nutrition Services first, before it can legally use photos on EBT cards.

The proposal to put photographs on EBT cards has shown ineffective and expensive in other states. In part, this is because federal regulations forbid SNAP EBT

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<sup>1</sup> 7 C.F.R. §274.8(f)(1).

cardholders from being treated from other consumers.<sup>2</sup> Unless stores check the ID of every consumer, they are not allowed by federal regulations to check SNAP EBT card photos. Additionally, because multiple family members can use SNAP cards, the photograph of a head of household on a card would not actually deter fraud, as people other than the person pictured are allowed by law to use the card. We have already heard of the expense of administrating this change in other states: in Georgia, the bill was \$7.8 million,<sup>3</sup> in Massachusetts, it cost \$1.5 million just to photograph everyone,<sup>4</sup> and Pennsylvania estimated that this would cost an additional \$7.77 per card.<sup>5</sup> We have even heard here in Maine an inkling of how much this would cost. For the WIC program alone, the Department of Health and Human Services estimated it would cost \$200,000 annually to administer when the last administration attempted this route.<sup>6</sup>

Finally, because placing photographs on EBT cards will not do anything to meaningfully combat fraud, this proposal will end up as an exercise in expensive, needless stigmatization of the poor. It will lead to heightened suspicion on the basis of a person's economic status. Unwarranted scrutiny of individuals who have given the government no reason to suspect them of wrongdoing, based solely on their participation in a government program to assist people experiencing poverty, turns the presumption of innocence on its head.

We urge you to reject LD 287.

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<sup>2</sup> 7 C.F.R. § 278.2(b).

<sup>3</sup> Chris Joyner, *Photos on food stamp cards: Why it didn't happen*, THE ATLANTA JOURNAL-CONSTITUTION, May 5, 2016, <http://www.myajc.com/news/state--regional-govt--politics/photos-food-stamp-cards-why-didn-happen/EP10MHbLB2E9aiFUgmoSNJ/>

<sup>4</sup> Megan Woolhouse, *US orders Mass. To fix food stamp procedures*, THE BOSTON GLOBE, Dec. 8, 2014, <https://www.bostonglobe.com/business/2014/12/08/usda-says-photos-food-stamp-cards-blocking-some-families-from-benefits/W0JbAUE6J0rODLX7UboMMK/story.html>.

<sup>5</sup> Rhode Island Department of Human Services, *Photo Identification EBT Cards Feasibility to Dispense Public Assistance Benefits*, Sept. 2013, at 1, <https://lisaopdycke.files.wordpress.com/2014/03/ebt-feasibility-in-ri1.pdf>.

<sup>6</sup> Matthew Stone, *Mary Mayhew insists on photo IDs for infant nutrition program and loses \$1.4M*, THE BANGOR DAILY NEWS, Jan 11, 2017, <http://bangordailynews.com/2017/01/11/mainefocus/mary-mayhew-insists-on-photo-ids-for-infant-nutrition-program-and-loses-1-4m/>.