

United States Senate

WASHINGTON, DC 20510

July 12, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1275 First Street, NE
Washington, DC 20002

RE: Docket No. CFPB-2023-0052, Required Rulemaking on Personal Financial Data Rights

Dear Director Chopra:

We write to urge the Consumer Financial Protection Bureau (CFPB) to include Electronic Benefit Transfer (EBT) accounts in its upcoming final rule implementing Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to provide families who receive nutrition or financial assistance with critical financial data rights. Furthermore, we urge the CFPB to work with the U.S. Department of Agriculture (USDA) and Department of Health & Human Services (HHS) to establish strong protections for EBT users on par with users of other financial services like debit and credit cards.

CFPB's rulemaking seeks to address the fragmented landscape of personal financial data access, but its proposed rule did not provide coverage for EBT accounts. As the primary federal agency tasked with protecting consumers of financial services, the CFPB should work to protect access to financial information, establish standards for data access, and promote the development of standards for secure data exchange for families who receive nutrition and financial assistance. Tens of millions of low-income Americans rely on EBT to receive vital nutrition and financial assistance through federal programs like the Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Temporary Assistance for Needy Families (TANF). Recipients can use their EBT cards just like debit and credit cards, paying for essential goods and services like groceries or shelter and utilities.

Unfortunately, Americans seeking to digitally manage their EBT accounts lack access to many of the basic features available to holders of debit and credit cards, including budgeting apps, reliable and secure online portals, and real-time text and email notifications. This gap in access persists primarily because of the vendors that contract with states to provide EBT services, known as EBT processors. Access to EBT account information varies widely by state: some states offer web portals, others offer mobile apps, and most offer a telephone service. These

different interfaces are prone to glitches and slowdowns, are generally not mobile-friendly or language-accessible, and frequently crash on the first day of the month when thousands of individuals attempt to log on at once. Unfortunately, third-party apps that attempt to provide recipients a better digital experience face considerable barriers erected by the EBT processors.

The current ecosystem of personal finance services is powered by application programming interfaces (APIs), mechanisms by which mobile apps and websites can interact seamlessly and securely with computer systems at institutions that store financial data, like banks and credit unions. For example, when a user registers for a third-party budgeting app, they can authorize the app to access their financial data through a secure process for each financial institution. The app can then aggregate data from and track spending across different cards and accounts.

EBT processors, on the other hand, do not offer APIs, forcing apps to use a risky, error-prone process called “screen scraping” to access EBT data on users’ behalf. To make matters worse, EBT processors frequently make it prohibitively difficult for third-party apps to screen scrape, even when those apps have received explicit consent from EBT cardholders to access user data. If screen scraping does work, the process still puts EBT users, already vulnerable to theft from EBT card skimming, at greater risk of data breaches. Without standards that require EBT processors to offer fast, reliable, and user-friendly APIs, EBT users will continue to face unnecessary barriers to using third-party financial applications.

It’s clear that EBT processors, more than most other entities that store financial data, do not offer consistent data access and functionality that could improve beneficiaries’ ability to manage their finances. Including coverage of EBT accounts in CFPB’s final rule implementing personal financial data rights could remedy many of the problems currently hindering EBT data access by requiring EBT processors to comply with the same standards as other financial institutions. Were the final rule to include coverage of EBT, it could improve data access for beneficiaries by:

- **Establishing basic standards for data access.** CFPB’s rule could require EBT processors to maintain an API for third parties to access consumer-authorized data. In addition, EBT processors would have to make the data available in a standardized format, reducing the burden on apps to integrate. Finally, the rule could require APIs to meet minimum performance specifications based on current industry and international standards, such as being available at least 99.5% of the time and responding to a web request within 4 seconds.
- **Transitioning from screen scraping to more secure methods of data sharing.** CFPB correctly recognizes that screen scraping is “not a viable long-term method of access” due to security risks, the increased load that scraping puts on systems, and the costs incurred by providers and apps when access via scraping must be negotiated. Were CFPB to expand the rule to include EBT, the need for web scraping EBT data would be

eliminated. Because EBT processors would be required to maintain APIs, beneficiaries would be better able to enjoy more consistent, reliable, and useful digital experiences.

- **Promoting fair, open, and inclusive industry standards.** CFPB's rule identifies the role that industry standard-setting bodies will play in crafting standards around data access for the entire financial sector. Failing to cover EBT in the final rule could further widen the gap that exists between the EBT system and the rest of the financial system, since technical standards for data access would be formulated without EBT stakeholders at the table. Further, limited research suggests that consistent, relatively seamless access to information like balances may aid benefits recipients in financial management.

While critics of the rule argue that USDA alone has the authority to regulate services associated with EBT, in some jurisdictions, cash assistance through Temporary Assistance for Needy Families (TANF) program, administered by HHS, is also disbursed through existing EBT contracts. Further, households use EBT cards much like any other household or personal financial consumer product. If the CFPB ultimately determines that EBT warrants a legitimate categorical exclusion from the final rule, we ask that CFPB, USDA, and HHS work together to provide comparable standards for access, safety, and functionality to the final CFPB rule.

Support for inclusion of EBT in CFPB's personal data rights rulemaking extends across many sectors, including financial services, anti-hunger, and pro-consumer protection organizations. Leading public and private sector organizations advocated for CFPB's inclusion of EBT accounts in its final rule on the grounds that it would foster a more equitable and accessible financial services ecosystem. We strongly agree.

Americans who receive benefits through EBT desire and deserve a modern consumer experience, including the ability to use digital services that enable them to leverage their data for their own benefit. Through its final rule, CFPB has an opportunity to allow benefits recipients to access the same suite of applications and functionality as wealthier Americans, improving their ability to budget, track spending, and plan for the future. To that end, we urge CFPB to empower EBT users as part of its critical mission of ensuring financial data access for all Americans, especially those who are most vulnerable.

Thank you for your attention to this important matter.

Sincerely,

John Fetterman
United States Senator

Ron Wyden
United States Senator

Raphael Warnock
United States Senator

Tina Smith
United States Senator

CC: The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture
The Honorable Xavier Becerra, Secretary, U.S. Department of Health and Human
Services