

# MAINE STATE LEGISLATURE

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February 14, 2014

Honorable Justin L. Alford  
President of the Senate  
2 State House Station  
Augusta, Maine 04333

Honorable Mark W. Eves  
Speaker of the House  
2 State House Station  
Augusta, Maine 04333

President Alford and Speaker Eves:

Thank you for your letter of January 9, 2014, urging vigorous prosecution of public benefits fraud, with emphasis on new reports of misuse of EBT cards.

This Office wholeheartedly agrees that the protection of the public purse and the public trust requires us to take very seriously the misuse of taxpayer dollars, particularly when entities or individuals steal from programs such as TANF and SNAP, which are intended to help the very poor, and MaineCare which is intended keep people working and in good health.

In 2010, concerned about widespread reports of eligibility and recipient fraud, I hired a new prosecutor to work with the Department of Health and Human Services to ferret out and pursue the theft of public benefits. This attorney and the other prosecutors in my office beefed up the training of investigators at DHHS to make sure the cases we take to court are meritorious and appropriately investigated. In the past three years this Office has successfully prosecuted 37 cases of DHHS fraud, obtaining significant jail sentences and restitution orders totaling \$489,954.

These cases include the prosecution of a DHHS employee who stole \$1,428.93 in Food Stamp benefits by issuing money to fictitious accounts. These cases sometimes involve the transferring of an EBT card without authority, made a crime in 2012, along with theft and other offenses.

In 2012 Congress required states to enact measures to prevent TANF benefits on EBT cards from being used in liquor stores, casinos and adult venues. Following that federal mandate, Maine and 19 other states enacted such prohibitions. Maine's law disallowing the use of certain public benefits in gambling facilities, strip clubs and liquor stores took effect August 30, 2012. Rules implementing the law were not promulgated until mid-2013. Administrative enforcement of this provision by DHHS therefore is also very recent and recipients were not informed of the prohibition until very recently. We have advised DHHS to send notices to recipients and they are doing so. Of course, when an individual uses an EBT card in an ATM in one of these establishments, it is simply not possible to presume what the individual did with the funds withdrawn, keeping in mind that TANF and SSI funds deposited to EBT cards are not restricted in their use the way SNAP funds are, for instance.

Whether anybody has ever used EBT funds withdrawn from an ATM in any bank, store or other facility to purchase a pint of coffee brandy is beyond my direct knowledge, although I would not be surprised if this has occurred. Such behavior, of course, is socially unacceptable and fiscally irresponsible. However, there are other antisocial behaviors involving misuse of public funds which cause me equal or greater concern.

For instance—

--- The civil judgments and criminal penalties against dozens of individuals and business entities for tax evasion and tax fraud which our Office has obtained over the past three years totaling nearly \$1.1 million.

--- The financial fraud cases which our prosecutors have pursued in recent years, resulting in jail sentences and restitution orders of more than \$730,000. Just last month the financial crimes division obtained the conviction of a businessman for deliberately failing to provide worker's compensation insurance for his employees; he will pay nearly \$20,000 in fines and restitution. Other successful prosecutions include the convictions of: a DOT employee for stealing equipment and materials from work sites; a legislator for stealing Clean Election Funds; the owner of a grocery store for letting customers use the food stamp portion of their EBT cards to buy liquor and cigarettes; and many others.

--- The major fraud prosecutions brought by the HealthCare Crimes Unit in our Office. This small unit, funded with federal dollars, goes after pharmaceutical companies and service providers who inappropriately bill DHHS for prescription drugs and services. These cases are significant for their dollar value, for the scale of the misconduct involved and for the pattern of deliberate disdain for Maine taxpayers.

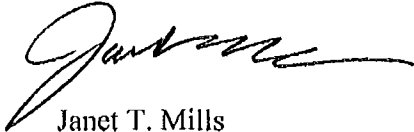
These cases include a \$2.2 billion national settlement with Johnson & Johnson for off-label marketing of three antipsychotic drugs in which Maine received \$2.8 million in restitution and the 2010 case of a Norway businesswoman who went to prison for submitting more than \$4 million in fraudulent claims to the MaineCare program, falsely claiming she was providing services to autistic and disabled children.

While we are taking action against eligibility and recipient fraud which is more visible to the public and more talked about, provider fraud is also a very high priority for us. These providers steal millions of dollars from the public purse and seriously undermine the public trust in our MaineCare program. Over the last three years the HealthCare Crimes Unit has recovered more than **\$55 Million** in state and federal funds as a result of fraudulent practices by pharmaceutical companies and major providers.

There is a great deal of talk this election year about welfare fraud. I hope that we put this issue in perspective, that we make sure we apply the rule of law fairly and uniformly, that we go after big fish as well as small, and that we not elevate one over the other. Both the public purse and the public trust depend on it.

Thank you.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet T. Mills", written in a cursive style.

Janet T. Mills  
Attorney General