

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

SB 245 (Hurtado) – As Amended March 16, 2023

SENATE VOTE: 31-8

SUBJECT: California Food Assistance Program: eligibility and benefits

SUMMARY: Expands eligibility for the California Food Assistance Program (CFAP) to any individual whose immigration status is the sole basis for their ineligibility for CalFresh by removing the 55 years and older age limit on eligibility.

EXISTING LAW:

State law:

- 1) Establishes the CalFresh program to administer the provision of federal Supplemental Nutrition Assistance Program (SNAP) benefits to families and individuals meeting certain criteria, as specified. (Welfare and Institutions Code [WIC] § 18900 *et seq.*)
- 2) Requires the California Department of Social Service (CDSS) to establish CFAP to provide assistance for persons who are not eligible for federal SNAP benefits due solely to their immigration status, as specified. (WIC § 18930 *et seq.*)
- 3) Provides that noncitizens of the United States (U.S.) shall be eligible for CFAP if the person's immigration status meets the SNAP eligibility criteria in effect on August 21, 1996, but is not eligible for SNAP benefits solely due to their immigration status, as specified. (WIC § 18930(c)(2))
- 4) Provides that noncitizens of the U.S. shall be eligible for CFAP if the person is a battered immigrant spouse or child or the parent or child of the battered immigrant, as specified, or if the person is a Cuban or Haitian entrant, as specified. (WIC § 18930(c)(3))
- 5) Provides that an applicant who is otherwise eligible for the CFAP but who entered the U.S. on or after August 22, 1996, shall be eligible for aid under this chapter only if they are sponsored and one of the following apply: the sponsor has died; the sponsor is disabled, as specified; or, the applicant, after entry into the U.S., is a victim of abuse by the sponsor or the spouse of the sponsor if the spouse is living with the sponsor. (WIC § 18930(c)(4))
- 6) Provides that an applicant who is otherwise eligible for CFAP but who entered the U.S. on or after August 22, 1996, and who is not sponsored or a victim of abuse, shall be eligible for CFAP beginning on October 1, 1999. (WIC § 18930(c)(5))
- 7) Requires applicants for CFAP to provide verification that specified conditions of eligibility are met. (WIC § 18930(c)(6))
- 8) Defines abuse and the documentation necessary to verify abuse as a condition of eligibility for the CFAP. (WIC § 18930(c)(7) and (8))

- 9) Provides that CFAP benefits to a household be identical to the amount of CalFresh benefits if the household is eligible. (WIC § 18930(d)(1))
- 10) Provides that CFAP benefits to an individual be the identical share of CalFresh benefits if the individual had not been excluded from CalFresh. (WIC § 18930(d)(2))
- 11) Requires, to the extent allowed by federal law, the delivery of CFAP benefits be identical to delivery of CalFresh benefits. (WIC § 18930(d)(3))
- 12) Requires, to the extent allowed by federal law, that the income, resources, and deductible expenses of those who receive CFAP benefits shall be excluded when calculating CalFresh benefits. (WIC § 18930(e)(1))
- 13) Provides that no household shall receive more CalFresh benefits than it would if no household member was rendered ineligible pursuant to federal law, as specified. (WIC § 18930(e)(2))

Federal law: *Note: For the purposes of referring to federal law accurately, this section uses the term "alien" which is not a term used in the Committee or California, per AB 1096 (Luz Rivas), Chapter 296, Statutes of 2021.*

- 14) Establishes SNAP pursuant to the Food Stamp Act of 1964. (7 United States Code [U.S.C.] § 2011 *et seq.*)
- 15) Establishes citizenship requirements for SNAP benefits, including that undocumented immigrants are ineligible for SNAP, as specified. (7 Code of Federal Regulations § 273.4.)
- 16) Establishes the Immigration and Nationality Act (INA), covering aspects related to immigration, naturalization, deportation, and citizenship. (8 U.S.C. 1101 *et seq.*)
- 17) Establishes the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, restricting eligibility of aliens for many federal benefit programs, including the Temporary Assistance for Needy Families (TANF), Social Security Income, Medicaid, and SNAP, except for "qualified aliens." (Title IV of Public Law 104-193; 8 U.S.C. §§ 1601-1646)
- 18) Authorizes a state to provide that an alien who is not lawfully present in the U.S. is eligible for any state or local public benefit for which such alien would otherwise be ineligible only through the enactment of a state law after August 22, 1996, which affirmatively provides for such eligibility. (8 U.S.C. § 1621(d))
- 19) Provides that any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible. (8 U.S.C. 1182(a)(4)(A))
- 20) Provides that in determining whether an alien is admissible under the public charge rule, the consular officer or the Attorney General shall at a minimum consider the alien's: age; health; family status; assets, resources, and financial status; and, education and skills. (8 U.S.C. 1182(a)(4)(B))

FISCAL EFFECT: According to the Senate Appropriations Committee on April 10, 2023:

- The California Department of Social Services (CDSS) estimates ongoing General Fund costs in the hundreds of millions for benefits, as well as costs in the millions for automation costs for administration.
- Cost to counties for administration would be potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

COMMENTS: This bill is identical to AB 311 (Santiago) which was heard and passed out of this Committee on April 18, 2023.

Background: *Immigrants* with legal standing in the U.S., both temporary and permanent, are those who have been granted to live and work in the country by obtaining a visa or other legal status, such as legal permanent residency (LPR), being granted asylum, admitted as a refugee, a parolee, and conditional entrants, among others. Once in the country, these immigrants are entitled to certain rights and protections under the law, including access to government benefits and services, such as healthcare, education, and public social services. As of 2023, the California Budget and Policy Center reports that over 11 million immigrants, defined as foreign-born individuals, reside in California, making up 28% of the state population. According to the Public Policy Institute of California (PPIC), the vast majority of immigrants in California are documented residents. Specifically, 82% are either naturalized citizens or had other legal statuses, such as visa holders and LPR.

Undocumented immigrants are individuals who enter or reside in a country without legal authorization. These individuals often fear deportation and lack access to basic rights and protections afforded to legal residents. They typically face significant barriers to accessing government services and may be vulnerable to exploitation and abuse in the workplace and elsewhere. In the same California Budget and Policy Center report, 1.85 million immigrants were undocumented in 2021. The Migration Policy Institute reported that about 293,000 of these undocumented immigrants were 55 years of age or older in 2019.

Food Insecurity in California. The United States Department of Agriculture (USDA) defines “food insecurity” as the occasional or constant lack of access to the food that one needs in order to live a healthy, active life. While California declared food a human right in 2023 and produces nearly half of the nation’s fruits and vegetables, about 8 million Californians currently struggle with food insecurity, representing 20.3% of the state’s population.

Noncitizens in particular make up more than 90% of California’s farmworkers, and over half are undocumented. As of 2023, PPIC reports that 8% of these undocumented farmworkers are 55 years of age and older. California hosts nearly half of the undocumented agricultural worker population in the U.S., yet 45% still suffer from food insecurity in 2022, as indicated by Nourish California and California Immigrant Policy Center Food4All.

The COVID-19 pandemic only exacerbated hardships, as food insecurity and poverty levels rose across the nation. Factors contributing to food insecurity include economic disparities, high living costs, limited access to affordable nutrition options, and systemic barriers such as racism and discrimination.

CalFresh. SNAP is the largest federal nutrition assistance program in the U.S. designed to provide nutrition assistance to low-income families and individuals. Administered by CDSS, CalFresh is California's version of SNAP, which provides monthly benefits to help eligible households purchase nutritious food items. Participants receive benefits on Electronic Benefit Transfer (EBT) cards, which can be used to purchase eligible food items such as fruits and vegetables, meat, dairy products, and seeds and plants that produce food at authorized retailers, including grocery stores, supermarkets, and farmers' markets.

One of the CalFresh qualifications include earning a gross income (income before deductions and exemptions) below 200% of the Federal Poverty Level (FPL). Those exempt from gross income eligibility requirements are households with: a member who is 60 years of age or older, a member with a disability, or members in a household who all receive cash assistance. According to CDSS, the following chart demonstrates the gross monthly and annual income for CalFresh recipients based on household size.

200% FPL for 2023 Gross Income		
Household Size	Gross Monthly Income	Gross Annual Income
1	\$2,430	\$29,160
2	\$3,287	\$39,440
3	\$4,143	\$49,720
4	\$5,000	\$60,000
5	\$5,857	\$70,280
6	\$6,713	\$80,560
7	\$7,570	\$90,840
8	\$8,427	\$101,120
Each Additional Member	+ \$857	\$10,280

Another eligibility requirement for CalFresh relates to citizenship or immigration status. Lawfully present, non-U.S. citizens who: have lived in the country in a qualified status for five years; are receiving disability-related assistance or benefits (regardless of entry date); or, children under 18 years of age who are qualified and lawfully admitted for permanent residency, all qualify for CalFresh benefits under federal eligibility rules.

According to the Legislative Analyst's Office (LAO), about 5.1 million Californians received a total of \$14.5 billion in CalFresh benefits, all of it federally funded, for an average monthly benefit of about \$185 per recipient in 2022-23.

Without CalFresh food assistance, poverty would rise 11% for California residents in 2023, according to a 2024 brief from the PPIC. Lack of access to a nutritional diet has serious implications, especially for children, leading to poor school attendance and performance, reduced workplace productivity, and deteriorated physical health. Numerous reports and studies have highlighted the benefits of CalFresh for both recipients and the economy. For example, CalFresh enables families to afford a healthy diet, lowering the risk of chronic diseases and reducing healthcare costs. Additionally, food benefits provided by CalFresh help stabilize the economy. The USDA has shown that each dollar in federally funded CalFresh benefits generates \$1.79 in economic activity, and every \$1 billion in benefits leads to the creation of over 10,000 jobs.

California Food Assistance Program. CFAP was established in 1996 as a response to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which placed restrictions on access to food assistance programs to certain noncitizens. The federal government authorized states to establish state-funded food assistance programs to those who were impacted by the federal reform.

In response, California provides state-funded food assistance to qualified noncitizens through CFAP using the same automated systems used by CalFresh, EBT, and the California Statewide Automated Welfare System. Through the EBT system, the federal government directly deposits funds into the accounts of participating households, with the state later reimbursing the federal government for these expenditures. According to the Governor's 2024-25 Budget, a caseload trend analysis highlighted that 43,229 authorized immigrants received CFAP assistance in 2022-23. According to CDSS, examples of individuals eligible for CFAP include noncitizens who are:

- LPRs who have not met the five-year U.S. residency requirements or 40 qualifying work quarters criteria;
- Parolees;
- Conditional entrants; or,
- Battered or abused.

While CFAP provides food assistance to individuals ineligible for CalFresh due to federal eligibility requirements, currently, those who are still excluded from accessing CFAP and CalFresh benefits include undocumented immigrants, Deferred Action for Childhood Arrivals (DACA) recipients, Temporary Protected Status (TPS) holders, and certain visa holders.

In 2021, SB 129 (Committee on Budget and Fiscal Review), Chapter 69, Statutes of 2021, approved \$5 million in 2021-22 and \$25 million in 2022-23 to begin the automation changes necessary to expand access to CFAP to all regardless of immigration status, to begin 2023-24. SB 187 (Committee on Budget and Fiscal Review), Chapter 50, Statutes of 2022, included language to begin a targeted, age-based expansion of CFAP regardless of immigration status to include noncitizens age 55 years or older by October 2025, or upon completion of the necessary automation changes.

The Governor's 2024-25 May Revision proposed to delay for two years the CFAP expansion, with automation to begin in 2026-27 and benefits to begin in 2027-28, as well as to re-appropriate any unspent funds associated with the planning, automation, and outreach activities from 2023-24 to the 2024-25 fiscal year to continue to work toward the new, delayed implementation date. The Joint Legislative Budget Committee proposed to approve the above proposals for the 2024-25 budget. A final 2024-25 budget has not been adopted yet.

This bill expands eligibility for CFAP, but is contradictory to the budget that the Legislature sent to the Governor on May 29, 2024. As such, if this bill were signed into law, the implementation is unclear.

Author's Statement: According to the Author, "[This bill] seeks to address historic inequities by expanding access to California's food assistance programs to vulnerable communities who

have been previously denied due to their immigration status. There are over 2 million undocumented immigrants living in California, many of whom are ineligible for state or federal public benefits due to their immigration status.

“Recent estimates indicated that both federal and state food assistance programs (CalFresh and CFAP) unjustly exclude between 690,000 to 840,000 residents solely on the basis of their immigration status. CFAP was created in response to the 1996 federal welfare reform act, the Personal Responsibility and Work Opportunity Reconciliation Act, which excludes several qualified immigrants from food assistance, due to their immigration status. CFAP currently provides monthly food benefits to legal noncitizens who are not eligible for federal SNAP benefits. However, CFAP still excludes many other immigrant groups like undocumented immigrants, Deferred Action for Childhood Arrivals recipients, Temporary Protected Status holders, and certain visa holders.

“[This bill] would increase access to food benefits for low income undocumented immigrants who are in need of food assistance but are denied due to their immigration status. By expanding access, it will prevent the onset of negative effects of food insecurity and provide food aid and income support to individuals who need it.”

Equity Implications: According to the PPIC, the vast majority of California’s immigrants were born in Latin America (49%) or Asia (40%). The leading countries of origin are Mexico, the Philippines, China, India, and Vietnam.

California’s undocumented population suffers disproportionately high levels of poverty. In 2019, according to the California 100’s *“Future of Immigrant Integration Issue Report,”* 57% of undocumented immigrants experience working poverty, compared to 29.2% of U.S.-born residents. Additionally, a 2022 report by the National Library of Medicine, summarized that noncitizens disproportionately work in low-wage industries and the informal labor market, which are linked to socioeconomic instability and high risks of food insecurity.

Although many public benefits expanded in California during the COVID-19 pandemic, many undocumented immigrants remained ineligible for state and federal food assistance programs. Additionally, CalFresh-qualified families of mixed status living in households with undocumented individuals often receive less benefits than other families, as their undocumented family members are excluded in determining the amount of assistance they receive. The provisions of this bill seek to address equity by ensuring that eligible noncitizens experiencing food insecurity are able to access nutrition assistance regardless of age.

Policy Considerations: A public charge, as originally defined by the federal public charge rule in 1999, referred to a noncitizen who is “primarily dependent on the Government” for public assistance programs. The public charge rule allowed the federal government to reject noncitizens seeking to extend their visa or adjust their legal status if they relied on certain public benefits programs to make ends meet. Under the 1999 rule, programs like SNAP, Medicaid, and housing vouchers and subsidies were not to be considered.

However, in 2019, the Trump administration amended the public charge rule to permit the federal government to deny applications for extensions to stay or adjustments of status based on the applicants’ “likelihood” of dependence on SNAP and the other government programs excluded under the 1999 rule. Immigration officers began considering a broader range of factors

to assess the likelihood of becoming a public charge before approving a visa. These factors included age, income, family size, ability to speak English, credit scores and history, health, education, and family support. If they were deemed likely to receive benefits in the future based on this information, they could not obtain their visa or green card. A December 2018 survey conducted by the Urban Institute found that “about one in seven (13.7%) adults in immigrant families reported that they, or a family member, did not participate in, meaning they did not apply for or dropped out of, a non-cash benefit program in 2018 out of fear of risking future green card status.”

In September 2022, the Biden administration repealed the Trump administration’s expansion of the public charge rule, reverting to the 1999 public charge definition and completely removing SNAP as a public charge category in order to “mitigate the possibility of widespread chilling effects” that were felt by qualified noncitizens disenrolling or declining enrollment to public assistance.

Should this bill be signed into law, the author may wish to consider whether it is necessary to provide clarity to eligible noncitizens in order to discourage fear and misinformation of the public charge rule that would dissuade eligible noncitizens from applying to CFAP, particularly if future federal administrations choose to reinstate the 2019 change to the public charge rule.

As noted earlier, the Governor proposed to delay CFAP expansion for undocumented Californians ages 55 and older by two years, with benefits to begin October 2027.

Should this bill move forward, the author may wish to consider delaying implementation to October 2027 to align with the proposed budget delay.

Proposed Committee Amendments: The Committee proposes amendments to address policy considerations stated above to do the following:

- Delay implementation of this bill to October 2027.

RELATED AND PRIOR LEGISLATION:

AB 1968 (Jackson) of the current legislative session, would have required CDSS to establish a system to automatically enroll in the CalFresh program individuals who meet eligibility requirements of the Supplemental Security Income/State Supplementary Program (SSI/SSP), and to automatically enroll in CFAP individuals who meet eligibility requirements for the Cash Assistance Program for Immigrants (CAPI). *AB 1968 was held on the Assembly Appropriations Committee suspense file.*

AB 311 (Santiago) of the current legislative session, is identical to this bill. *AB 311 is set to be heard by the Senate Human Services Committee on June 17, 2024.*

SB 628 (Hurtado), Chapter 879, Statutes of 2023, declared that it is the established policy of the state that every human being has the right to access sufficient, affordable, and healthy food and requires all relevant state agencies to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the distribution of sufficient affordable food.

SB 464 (Hurtado) of 2021, would have expanded eligibility for CFAP to households that are ineligible for CalFresh benefits due solely to their immigration status. *SB 464 was held in the Assembly Appropriations Committee.*

AB 221 (Santiago) of 2021, would have required CDSS to: provide a food assistance benefit statewide to low-income California residents, regardless of their immigration status; contract with certain entities to issue the benefit; and, conduct a study to provide recommendations and solutions for a permanent food assistance program for low-income California residents experiencing food insecurity, regardless of their immigration status. *AB 221 was held on the Senate Appropriations Committee suspense file.*

AB 1096 (L. Rivas), Chapter 296, Statutes of 2021, struck the offensive and dehumanizing term "alien" used to describe a person who is not a citizen or national of the U.S. where it appears in multiple California code sections, and replaced it with other terms that do not include the word "alien," and makes other nonsubstantive changes.

AB 826 (Santiago) of 2020, would have required CDSS to establish a program to provide eligible immigrants with a cash benefit intended for food assistance. *AB 826 was vetoed by Governor Newsom.*

SB 1443 (Rubio) of 2020, would have made all noncitizens, regardless of immigration status, eligible for aid under CFAP. *AB 1443 was held in the Senate Rules Committee.*

AB 1770 (Alejo) of 2016, would have extended eligibility for nutrition assistance under CFAP to a noncitizen who is lawfully present in the U.S., provided he or she meets all remaining eligibility requirements. *AB 1770 was vetoed by Governor Brown.*

AB 2345 (Gonzalez) of 2014, would have expanded eligibility for aid under the California Work Opportunity and Responsibility to Kids program to noncitizen individuals who were lawfully present in the U.S. *AB 2345 was held on the Assembly Appropriations Committee suspense file.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Immigrant Policy Center (Co-Sponsor)

AFSCME

AJC San Francisco

Alameda County Community Food Bank

Alchemist CDC

American Jewish Committee (AJC) San Diego

American Jewish Committee - Los Angeles

Asian Pacific Islander Forward Movement

Bay Area Community Resources

Bravo & Bravo

Buen Vecino

California Alliance of Child and Family Services

California Association of Food Banks

California Food and Farming Network

California Pan - Ethnic Health Network
California WIC Association
Community Clinic Association of Los Angeles County (CCALAC)
County Health Executives Association of California (CHEAC)
County of Los Angeles Board of Supervisors
County of Santa Clara
County Welfare Directors Association of California
ETTA
Food for People, the Food Bank for Humboldt County
Gender Justice LA
GLIDE
Hadassah
Having Our Say Coalition
Health Net and its Affiliated Companies
HIAS
JCRC Bay Area
Jewish Center for Justice
Jewish Community Relations Council (SACRAMENTO)
Jewish Democratic Club of Silicon Valley
Jewish Democratic Club of Solano County
Jewish Family & Community Services East Bay
Jewish Family and Children's Service of Long Beach and Orange County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Service of San Diego
Jewish Family Services of Silicon Valley
Jewish Federation of Greater Los Angeles
Jewish Federation of Greater Santa Barbara
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Federation of the Sacramento Region
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Silicon Valley
Justice in Aging
JVS SoCal
LA Care Health Plan
Latino Coalition for a Healthy California
League of Women Voters of California
Marin Food Policy Council
National Association of Social Workers, California Chapter
Pesticide Action Network North America
Progressive Zionists of California
Public Health Advocates
Roots of Change
Sacramento Food Policy Council
San Diego Hunger Coalition
Second Harvest Food Bank of Orange County
Second Harvest of Silicon Valley

Sierra Harvest
The Praxis Project
Urban Counties of California (UCC)

Opposition

None on file.

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