

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 1377 (Wicks) – As Amended April 22, 2019

SUBJECT: CalFresh

SUMMARY: Requires the California Department of Education (CDE), Department of Health Care Services (DHCS), and the California Department of Social Services (CDSS), in consultation with stakeholders, to develop a proposed statewide process for utilizing certain data for purposes of increasing CalFresh enrollment, and requires the departments to issue recommendations to the relevant policy committees of the Legislature no later than August 31, 2020. Specifically, **this bill:**

- 1) Requires CDE, DHCS, and CDSS to, in consultation with stakeholders, as specified, develop a proposed statewide process for utilizing data collected across the free and reduced-price school meals program, Medi-Cal, CalFresh, and EBT, in addition to any necessary outreach and referrals to counties, to increase enrollment for the CalFresh program.
- 2) Requires the process be targeted towards the families of students who are eligible for free or reduced-price school meals for purposes of increasing these families' enrollment into CalFresh and accelerating their CalFresh enrollment process.
- 3) Requires CDE, DHCS, and CDSS, with stakeholder input, to do all of the following, as specified:
 - a) Examine data from the free and reduced-price school means program, Medi-Cal, CalFresh, and the EBT system to estimate the number of children whose families may be eligible for CalFresh;
 - b) Research past efforts to increase enrollment for this population, and, further, in the event that those past efforts did not result in a significant increase in enrollment, review and seek to address any issues that may have precluded increased enrollment;
 - c) Discuss and determine potential resolution of issues that could arise in developing the proposed statewide processes;
 - d) Examine different approaches that could increase enrollment;
 - e) Understand the differing data usage requirements, data sharing and confidentiality requirements, and other potential constraints governing the data held by each system and determine what federal authorization or state law changes would be necessary to enable processes that are identified by the departments and the stakeholder group;
 - f) Identify any federal waivers and federal or state law changes that would be required in order to implement the processes believed by the departments to be the most effective; and,

- g) Determine how to implement any consent process that is required by state or federal law, and how to best incorporate informed consent protocols into any recommended processes.
- 4) Requires CDE, DHCS, and CDSS, no later than August 31, 2020, to submit recommendations related to the provisions of this bill, and any other issues they identify relating to increasing enrollment in the CalFresh program, to the relevant policy committees of the Legislature, as specified.
- 5) Repeals the provisions of this bill as of January 1, 2025.

EXISTING LAW:

- 1) Establishes under federal law the “Supplemental Nutrition Assistance Program” (SNAP) pursuant to the Food Stamp Act of 1964 and establishes, in California statute, the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting certain criteria, as specified. (7 United States Code Section 2011 *et seq.*, Welfare and Institutions Code Section [WIC] 18900 *et seq.*)
- 2) Establishes the “Electronic Benefits Transfer (EBT) Act”, and defines the EBT system as the program designed to provide benefits to those eligible to receive public assistance benefits such as CalWORKs and CalFresh. (WIC 10065 *et seq.*)
- 3) Requires local education agencies to directly certify for free meals those children who are members of a household receiving assistance under SNAP. (7 Code of Federal Regulations [CFR] 245.6(b)(1))
- 4) Requires direct certification via CalFresh to occur three times per school year; once at or around the beginning of the school year, 3 months after the initial effort, and 6 months after the initial effort. (7 CFR 245.6(b))
- 5) Authorizes local educational agencies to directly certify for free or reduced-price meals those children who are members of a household receiving assistance under CalFresh or Temporary Assistance to Needy Families (California Work Opportunity and Responsibility to Kids [CalWORKs] in California) or who are enrolled in Medicaid, (Medi-Cal in California). (7 CFR 245.6(b)(2) and 245.6a(g))
- 6) Makes Legislative findings and declarations related to hunger and malnutrition among children from low-income families, federal programs providing nourishing meals to thousands of the state’s poverty area children who previously could not participate in school lunch programs, and the physical well-being of all of the children of the state being a matter of public concern and expenditures to secure such well-being serving a public purpose. (Education Code [EDC] Section 49490)
- 7) Allows any child nutrition entity to apply to CDE for all available federal and state funds in order to provide a nutritionally adequate breakfast or lunch, or both, to pupils, as specified. (EDC 49531)
- 8) Requires each school district or county superintendent of schools maintaining any kindergarten or any grades 1 to 12, inclusive, to provide for each needy pupil one

nutritionally adequate free or reduced-price meal during each school day, except for family day care homes that are required to be reimbursed for 75% of the meals served. (EDC 49550(a))

- 9) Requires the governing board of a school district and the county superintendent for schools to make paper applications for free or reduced-price meals available to pupils at all times during each regular school day, and also allows applications to be made available electronically online, as specified. (EDC 49557(a))
- 10) Allows each school district or county office of education to enter into a memorandum of understanding with the local agency that determines CalFresh program eligibility, or its designee, to share information provided on the School Lunch Program application with that agency, if the child is approved for free or reduced-price meals, as specified. (EDC 49557.3(a))
- 11) Specifies that the local agency that determines CalFresh program eligibility can only use information provided on a School Lunch Program application for the purposes directly related to the enrollment of families in the CalFresh program. (EDC 49557.3(b))
- 12) Enumerates the process by which a county that has entered into a memorandum of understanding with a school district or county office of education can determine CalFresh program eligibility for children whose information is shared with the county, and further allows the county to enroll the child in the CalFresh program upon receipt of a signed CalFresh program application, as specified. (WIC 18901.55 *et seq.*)

FISCAL EFFECT: Unknown

COMMENTS:

Hunger in California: According to the California Association of Food Banks, one in eight Californians and one in five children experiences food insecurity, despite the fact that California produces half the nation's fruits and vegetables. Defined as the occasional or constant lack of access to the food a person needs in order to lead a healthy and active lifestyle, food insecurity can result in poor school attendance and performance, low workplace productivity, and both physical and mental health issues. Food insecurity can have myriad effects on a child, including toxic stress, which can affect brain chemistry and development, malnutrition, poor health conditions and outcomes, anxiety and depression, and an inability to focus on schoolwork, which can lead to poor educational outcomes. To address the nutrition needs of children in California, numerous supports are available, including:

National School Lunch Program (NSLP): Created by the Richard B. Russell National School Lunch Act (P.L. 79-396), The NSLP is a federally assisted meal program that operates in public and nonprofit private schools and residential child care institutions to provide nutritious lunches to children during the school day at low or no cost. Operated at the federal level by the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS), the NSLP is operated in California through CDE, which ensures participating school districts and independent schools receive cash subsidies and USDA foods for each reimbursable meal they serve. Schools that participate in the program are required to serve lunches that meet certain federal meal guidelines. In order to receive free or reduced cost lunches, parents must fill out an application for meals, but children may also be determined "categorically eligible" through participation in

other federal programs such as SNAP, or based on their status as homeless, migrant, runaway, or as a foster child. In its first year, approximately 7.1 million children participated in the NSLP; in 2016, approximately 30.4 million children nationwide participated in the program. A December 2016 report by the Public Policy Institute of California (PPIC), found that approximately 939,000 public school children eligible for CalFresh are not participating in the program, although two-thirds of these children are receiving free school meals.

CalFresh: The federal Supplemental Nutrition Assistance Program (SNAP) provides food access to low-income individuals who meet certain eligibility criteria; in California, this program is known as CalFresh. CalFresh benefits are entirely federally funded, and administration at the federal level lies with the USDA. The USDA is tasked with setting specific eligibility requirements for SNAP programs across the country, as well as gross and net income tests, work requirements, and other documentation requirements. Currently, the maximum allowable gross income is 200% of the Federal Poverty Level (FPL), although households with elderly or disabled members are not subject to gross income criteria, but must have a net monthly income at or below 100% of the FPL. In California, CalFresh is administered at the local level by county human services agencies, with federal, state, and county governments sharing the costs of program administration. Benefits are made available on a monthly basis using an EBT card, which is similar to an automated teller machine (ATM) card. CalFresh benefits, however, cannot be withdrawn in cash at point-of-sale terminals; instead, recipients may only use the card to purchase certain eligible foods from stores that accept EBT. Nearly 4 million individuals in California receive CalFresh benefits; a February 2018 report by the PPIC found that approximately half of the CalFresh cases in 2016 were households with children, and data from the Center for Budget and Policy Priorities demonstrate that in 2014, just over 2.2 million children in California received CalFresh benefits.

Other federal and state programs that provide for the nutritional needs of children include Women, Infants, and Children, which provides funds for supplemental foods and healthcare to certain eligible women, CalWORKs, which provides cash assistance to families with children, California Food Assistance Program, which provides food benefits for eligible non-citizens, and the Food Distribution Program on Indian Reservations that provides food to low-income households living on Indian reservations, among others.

Medi-Cal: Medi-Cal is California's federal Medicaid program and is responsible for serving low-income individuals, including seniors, foster youth, pregnant women, families, individuals with disabilities, and certain eligible adults without children. Under Medi-Cal, these individuals receive dental, vision, long-term care, and mental health and substance use disorder treatments, among others. Under the Affordable Care Act (ACA), the number of people eligible for Medi-Cal increased and included individuals who: are between the ages of 19 and 64 and who have incomes under 138% of the FPL, do not receive Medicare, and are not pregnant. In order to be eligible, Medi-Cal benefits recipients must have a modified adjusted gross income that is below 138% of the FPL. According to data from DHCS (the state department responsible for administering Medi-Cal), as of August 2018, just over 13 million Californians were certified eligible for Medi-Cal benefits.

Medi-Cal and its intersection with CalFresh: Individuals who are eligible for Medi-Cal are often eligible for other public assistance programs by virtue of similar eligibility criteria among programs. AB 191 (Bocanegra), Chapter 669, Statutes of 2013, required CDSS to design and implement a program of categorical eligibility for CalFresh for any household that includes a

member who receives, or is eligible to receive, assistance through the Medi-Cal program. Under the provisions of AB 191, a household applying for or receiving CalFresh benefits with an income at or below 200% of the FPL that contains a household member who receives, or is eligible to receive, Medi-Cal would also be categorically eligible for CalFresh (so long as the household meets other CalFresh eligibility requirements).

Need for this bill: In 2011, AB 402 (Skinner), Chapter 504, Statutes of 2011, authorized school districts to establish a process for sharing applications for free meals with county welfare offices, conditioned upon the consent of a parent, which allowed for easier identification of the families of students who may be eligible for CalFresh benefits. This bill seeks to further the goals of AB 402 by requiring CDE, DHCS, and CDSS to collaborate with stakeholders to develop a statewide process that would enable the state to utilize data collected by the school lunch program, Medi-Cal, CalFresh, and the EBT system in order to increase the enrollment of families of children who receive free and reduced-price lunches into CalFresh. The bill also requires CDE, DHCS, and CDSS to report any recommendations to the relevant policy committees of the Legislature no later than August 31, 2020, and repeals the provisions of this bill on January 1, 2025.

According to the author, “Food insecurity among households with school-aged children remains high across California. In particular, food insecurity has been associated with negative health, developmental, and educational outcomes for children, and research shows that when children are hungry, they are not prepared to learn. CalFresh and other nutrition programs provide necessary benefits for families and children. The data and eligibility requirements for CalFresh, the school meals program, and Medi-Cal are complicated, which makes participation for these programs varied, and makes it difficult for eligible children and families to easily participate and be enrolled across all three programs, especially in the CalFresh program. [This bill] will bring together the relevant state departments, local county human services agencies, school nutrition representatives, and other key stakeholders that help administer these programs to find the best possible solutions and process that would streamline and accelerate enrollment in CalFresh in order to provide every available resource to families facing food insecurity.”

Double referral: This bill will be referred to the Assembly Education Committee should it pass out of this committee.

PRIOR LEGISLATION:

SB 138 (McGuire), Chapter 724, Statutes of 2017, required CDE, in consultation with DHCS, to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program.

AB 1502 (Thurmond), Chapter 91, Statutes of 2017, authorized CDE to conduct the required data match of local school records to determine eligibility for the National School Lunch Program and the School Breakfast Program.

AB 191 (Bocanegra), Chapter 669, Statutes of 2013, required CDSS to design and implement a program of categorical eligibility for CalFresh for any categorically eligible household that includes a member who receives, or is eligible to receive, assistance under the Medi-Cal program.

AB 402 (Skinner), Chapter 504, Statutes of 2011, authorized school districts and county offices of education to share information provided on the National School Lunch application with the local agency that determines CalFresh eligibility for nutrition assistance programs, and also required each county to determine eligibility for CalFresh based on the information shared by a school district or county office of education and to enroll determined eligible pupils.

S. 3467 (Ellender), P.L. 89-642, 1966, known as the Child Nutrition Act of 1966, began the School Breakfast Program as a pilot project.

H.R. 3370 (Russell), P.L. 79-396, 1946, known as the Richard B. Russell National School Lunch Act, established the National School Lunch Program.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Food Banks (Sponsor)
 County Welfare Directors Association of California (Sponsor)
 Alameda County Community Food Bank
 Berkeley Food Network
 California Catholic Conference
 California Immigrant Policy Center
 California Partnership
 CaliforniaHealth+ Advocates
 County of Los Angeles
 County of Ventura
 Feeding San Diego
 Food Bank of Contra Costa and Solano
 Hunger Action Los Angeles Inc.
 Jacobs & Cushman San Diego Food Bank
 Los Angeles Regional Food Bank
 National Association of Social Workers, California Chapter
 Redwood Empire Food Bank
 Sacramento Food Bank & Family Services
 Second Harvest Food Bank of Santa Cruz County
 Sonoma County Human Services Department
 Western Center on Law & Poverty, Inc.
 Yolo Food Bank

Opposition

None on file

Analysis Prepared by: Kelsy Castillo / HUM. S. / (916) 319-2089