

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 274 (Bryan) – As Introduced January 23, 2023

SUBJECT: CalWORKs: CalFresh: eligibility: income exclusions

SUMMARY: Exempts grants, awards, scholarships, loans, or fellowship benefits used for educational purposes from income considerations when determining eligibility for California Work Opportunity and Responsibility to Kids (CalWORKs); expands CalFresh eligibility by requiring California Department of Social Services (CDSS) to use Temporary Assistance for Needy Families (TANF) eligibility requirements to determine CalFresh eligibility. Specifically, **this bill:**

- 1) Exempts, notwithstanding any other law, any grant, award, scholarship, loan, or fellowship benefit provided to any assistance unit member for educational purposes from consideration as income for purposes of determining eligibility for CalWORKs benefits or calculating grant amounts.
- 2) Requires CDSS, for the purposes of calculating a household income for CalFresh, to use the option in federal regulations, as further described in 1) of existing law, allowing states to determine TANF eligibility or benefits by excluding specified income within the restrictions described in 2) of existing law.
- 3) Requires, notwithstanding the rulemaking provisions of the Administrative Procedure Act, CDSS to implement this bill using an all-county letter or similar instruction on or before March 1, 2024, until regulations are adopted.
- 4) Clarifies that no appropriation, pursuant to Welfare and Institutions Code Section (WIC) 15200, will be made for purposes of implementing this bill.

EXISTING LAW:

- 1) Permits individual states to exclude types of income that the state does not consider when determining eligibility for TANF or Medicaid to determine Supplemental Nutrition Assistance Program (SNAP) eligibility in a state operations plan. (7 Code of Federal Regulations [CFR] 273.9(c)(19))
- 2) Prohibits states from excluding the following from income calculations:
 - a) Wages or salaries;
 - b) Gross income from a self-employment enterprise;
 - c) Benefits under Title I, II, IV, X, XIV or XVI of the Social Security Act, including Supplemental Security Income (SSI) benefits, TANF benefits, and foster care and adoption payments from a government source;

- d) Regular payments from a government source. Payments or allowances a household receives from an intermediary that are funded from a government source are considered payments from a government source;
 - e) Worker's compensation;
 - f) Child support payments, support or alimony payments made to the household from a non-household member;
 - g) Annuities, pensions, retirement benefits;
 - h) Disability benefits or old age or survivor benefits; and,
 - i) Monies withdrawn or dividends received by a household from trust funds considered to be excludable resources under 7 CFR 273.8(e)(8).
- 3) Provides eligibility requirements and exemptions for students under the CalFresh program. (7 CFR 273.5 *et seq.*)
- 4) Establishes under federal law SNAP pursuant to the Food Stamp Act of 1964. (7 United States Code [U.S.C.] Section 2011 *et seq.*)
- 5) Establishes the federal TANF program, which provides block grants to states to develop and implement their own state welfare-to-work (WTW) programs designed to provide cash assistance and other supports and services to low-income families (42 U.S.C. 601 *et seq.*)
- 6) Establishes in state law the CalWORKs program to provide cash assistance and other social services for low-income families through TANF. Under CalWORKs, each county provides assistance through a combination of state, county and federal TANF funds. (WIC 11120 *et seq.*)
- 7) Establishes income, asset, and real property limits used to determine eligibility for the CalWORKs program, and CalWORKs grant amounts, based on family size and county of residence. (WIC 11150 - 11160, 11450 *et seq.*)
- 8) Exempts the following from consideration as income for purposes of public social services, including CalWORKs, programs, as specified:
- a) Income that is received too infrequently to be reasonably anticipated, as exempted in federal SNAP regulations;
 - b) Income from college work-study programs;
 - c) An award or scholarship provided by a public or private entity to or on behalf of a dependent child;
 - d) Income or stipend paid by the United States (U.S.) Census Bureau, a governmental entity, or a nonprofit organization for temporary work related to the decennial census; and,

- e) Any federal pandemic unemployment compensation, so long as the federal pandemic unemployment compensation is exempt as income for purposes of establishing eligibility for the CalFresh program. (WIC 11157(b-d))
- 9) Requires all individuals over 16 years of age, unless they are otherwise exempt, to participate in WTW activities as a condition of eligibility for CalWORKs. (WIC 11320.3)
- 10) Establishes the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting certain criteria, as specified. (WIC Section 18900 *et seq.*)

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background: *Food insecurity in California.* “Food insecurity” is defined as the occasional or constant lack of access to the food that one needs in order to live a healthy, active life. Food insecurity can be impacted by a number of factors, including access to local healthy foods, the price of food, and the ability to store and prepare food. For individuals who face food insecurity, the choice is often between nurturing their physical health or maintaining other aspects of their lives, such as purchasing necessary medications or paying rent to maintain housing. A key federal program aimed at addressing food insecurity is SNAP; in California, SNAP is referred to as CalFresh.

CalFresh. In California, SNAP funds are administered through the CalFresh program. SNAP is the federal program that provides states funds to offer nutritional benefits to low-income individuals and families. The United States Department of Agriculture (USDA) sets SNAP eligibility standards and includes income tests, work requirements, and required documentation to apply for the benefit. The benefit is meant to assist with access to food and is distributed through various sources, depending on the state. Formerly known as food stamps, the program provides specific eligibility requirements and funding to states, with implementation at the local level conducted through the county. CalFresh is under the purview of CDSS and is facilitated through the county human services agencies. Federal, state, and local governments share in the financial obligation of the program’s administration. Individuals can complete the CalFresh application online, over the phone, in-person at their county CalFresh office, or through the mail. Eligible individuals in the state receive benefits through electronic cards, known as electronic benefit transfer cards, to purchase food items and seeds and plants that can be grown as food at home.

The USDA also sets the gross and net income requirements. As these requirements are set at the federal level, California has little flexibility in setting eligibility criteria for applicants and recipients. If a family passes the gross income test, the net income test is computed, and the amount is determined by deducting certain income from a household’s gross income. Currently, the maximum allowable gross income is 200% of the Federal Poverty Level, although households with elderly members or members with disabilities are not subject to gross income criteria. Effective October 1, 2022, through September 30, 2023, the maximum annual gross income for a household size of three is \$46,080. Because CalFresh is federally funded, California has some, but limited flexibility, in changing eligibility for CalFresh. When computing income for purposes of determining CalFresh eligibility, certain income is exempt, such as in-kind benefits, meals, clothing, employer-provided housing, vendor payments, or money paid to a third

party for a household expense by a person or organization outside of the household, among others. However, eligibility for students is viewed differently.

CalFresh Student Eligibility. A federal law, known commonly as the student eligibility rule, was enacted in 1977 to restrict part-time and full-time students enrolled in higher education from accessing SNAP. CalFresh applies the following definition of “student”: an individual must be between the ages of 18 and 49; physically and mentally fit for employment; and enrolled at least “half time,” as defined by the institution, at an institution of higher education. Higher education institutions include: a business, trade, technical, or vocation school at the post-high school level, or a junior, community, two-year, or four-year college, university, or graduate school.

Since implementing the student eligibility rule, the federal government has enacted flexibilities to ensure that more students who struggle with food insecurity have access to the public benefit. There are currently several determining factors that can exempt a student from the eligibility rule, including, but not limited to, if the student meets *one* of the following criteria:

- 1) Be age 17 or younger;
- 2) Be age 50 or older;
- 3) Be physically or mentally unfit for employment;
- 4) Be receiving TANF, (also known as CalWORKs in California);
- 5) Be enrolled in an institution as a result of participation in the federal Job Opportunities and Basic Skills program or its successor program;
- 6) Be employed for a minimum of 20 hours per week and be paid for that employment; or, if self-employed, be employed for a minimum of 20 hours per week with an income that is at least equal to the federal minimum wage multiplied by 20 hours;
- 7) Be participating in an on-the-job training program;
- 8) Be responsible for the care of a dependent household member under the age of six;
- 9) Be responsible for the care of a dependent household member who has reached the age of six but is under the age of 12 when CDSS has determined that adequate child care is not available to enable the student to attend class and comply with work requirements;
- 10) Be a single parent enrolled in an institution of higher education on a full-time basis, as determined by the institution, and be responsible for the care of a dependent child under age 12;
- 11) Be assigned to, or placed in, an institution of higher education through or in compliance with certain federal programs, including an employment and training program for low-income households that is operated by a state or local government where one or more of the components of such a program is at least equivalent to an acceptable employment and training program component.

- 12) Are eligible to participate in state or federally financed work-study during the school year, as determined by the institution of higher education; or,
- 13) Have an expected family contribution (meaning the amount of money the student can expect to receive from family) of zero dollars in the current academic year.

Using allowed federal flexibility, the state has removed the asset tests, finger-imaging requirement, and increased coordination with other social services to remove barriers to enrollment.

CalWORKs is the state's primary cash assistance program. More specifically, *CalWORKs* implements the federal TANF program and provides eligible low-income families with cash grants and supportive services aimed at helping them to secure education, training, and employment. Among others, the supportive services include mental health counseling, substance use disorder treatment, or domestic violence services; job skills training; attendance in a secondary school or in a course leading to certificate of general educational development.

Unless deemed exempt or otherwise not required to participate per *CalWORKs* rules, parents are required to develop and participate in a WTW plan. *CalWORKs*-approved WTW activities can include public or private sector subsidized or unsubsidized employment; on-the-job training; community service; secondary school, adult basic education and vocational education and training when the education is needed for the recipient to become employed; specific mental health, substance use disorders, or domestic violence services if they are necessary to obtain or retain employment; and a number of other activities necessary to assist a recipient in obtaining unsubsidized employment. According to the Public Policy Institute of California October 2020 report "*Supporting Student Parents in Community College CalWORKs Program*", students participating in *CalWORKs* are more likely to have a better course success rate, experience full-time enrollment, and matriculate to a degree than when not enrolled in college *CalWORKs* programs.

In 2021-22, the maximum monthly grant for a family of three on *CalWORKs* (one parent and two children), if the family has no other income and lives in a high cost-of-living county, is \$925. The same family living in a lower cost-of-living county would be eligible for up to \$878 per month. However, the average monthly cash grant for the family is estimated to be \$717. Many families earn some income, or live in a lower cost-of-living county, and do not qualify for the maximum grant amount. About 398,400 families are projected to receive *CalWORKs* benefits in Fiscal Year 2022-23.

Current Income Exclusions for Students. California currently allows for a number of *CalWORKs* income exclusions to be applied when determining CalFresh eligibility in the CalFresh Manual of Policy and Procedures including, but not limited to specified tax refunds or credits, a portion of disability-based unearned income, and student earned income if the child is under 19 years old and meets specified requirements. Most recently, effective December 1, 2021, all student loans and grants excluded for *CalWORKs* must also be excluded for CalFresh. CDSS released All County Letter No. 21-137 giving guidance of the below, and specifically clarifying that the money must be used for educational expenses in order for the income to be considered exempt. The following is the full list of educational assistance that must be excluded when determining CalFresh or benefits:

- Title IV and Bureau of Indian Affairs educational assistance;
- Grants administered by the Federal Secretary of Education;
- Loans or grants administered by:
 - The community college extended opportunity services,
 - The California Student Aid Commission, or,
 - A college accredited by the Western Association of Schools and Colleges;
- Needs-based grants for undergraduate students;
- Awards and scholarships for dependent children;
- Grants whose proceeds are not available to the student to meet current needs;
- Any other loans which have a written agreement specifying obligation to repay and a repayment plan; and,
- Any other educational assistance when it is used for allowable educational expenses.

This bill will expand what loans, grants, and scholarships can be used for in order to exempt it from calculating CalWORKs benefits. Specifically, the bill will allow students to spend this money for things such as living expenses.

Author’s Statement: According to Author, “Despite banning colleges from practicing scholarship displacement, the state still punishes CalWORKs and CalFresh recipients by reducing their state assistance if they earn any merit-based grants and scholarships. CalWORKs students must balance their academic pursuits with providing for their child(ren).

“Parents face the additional barrier of completing their credentials within 24 months; after this period, they are required to work 20 hours or more a week to continue receiving cash aid from the state. By counting merit-based educational funding against their cash aid, the state forces low-income student parents to choose between two vital forms of assistance, neither of which is enough to support both the student and their child(ren). [This bill] will stop the practice of punishing low-income student parents who work hard to qualify for merit-based scholarships and grants.”

Need for this bill: The bill has two major provisions: 1) expands grant, award, scholarship, loan, or fellowship eligibility when calculating CalWORKs allowance by allowing these income types to be used for more than educational expenses; and, 2) requiring CDSS to apply CalWORKs income exemptions to CalFresh income exemptions.

This bill continues the conversation about the support individuals seeking education need and expands the eligibility for public services. Additionally, applying CalWORKs income exclusions to CalFresh will also expand those eligible for CalFresh benefits.

Equity Implications: The provisions of this bill attempt to expand access to CalFresh by adding income exemptions to determine eligibility. CalFresh serves some of the most impoverished individuals in the state. It is well-documented that there is a significant number of students struggling with food insecurity. An April 2019 report by the Legislative Analyst’s Office found 44% of undergraduates and 26% of graduate students in California experience food insecurity, and data from the UC demonstrated that students who experience food and/or housing challenges have lower grade point averages (GPA) and graduation rates compared to students who have their basic needs met. Additionally, GPA and graduation gaps were found to be larger for students with intersectional identities across first-generation, LGBT+, underrepresented ethnic minorities, and community college transfers. Benefits from grants, awards, scholarships, loans or fellowships are intended to go for educational expenses. Including these benefits in income calculations exclude students who may need CalFresh benefits.

Policy Considerations: This bill makes CalWORKs exemptions apply to CalFresh applicants; however, CalFresh has stricter federal rules and less flexibilities than CalWORKs. As such, California is able to determine more state-based eligibility requirements that might not be able to apply to CalFresh eligibility. Given these considerations, the author may wish to amend their bill to ensure California is complying with CalFresh federal eligibility for rules.

This bill added a separate code section instead of amending the current code section governing student grant, award, scholarship, and loan exemptions. For continuity and better code section “readability”, the author may wish to move current language into the existing language rather than creating a new and separate code section.

Proposed Committee Amendments: The Committee is proposing the following amendments:

On page 2, in lines 1 through 7, strike out Section 1 and amend code section WIC 11157 to add under paragraph 3 of subdivision (b):

(C) For purposes of Chapter 2 (commencing with Section 11200) and notwithstanding any other law, any grant, award, scholarship, loan, or fellowship benefit provided to any assistance unit member for educational purposes shall be exempt from consideration as income for purposes of determining eligibility for benefits or calculating grant amounts pursuant to this chapter

On page 3, in line 1, strike out “The” and insert:

“To the extent permitted by federal law, regulation, or guidance, or a waiver thereof,
The”

RELATED AND PRIOR LEGISLATION:

AB 372 (Nguyen) of the current legislative session, would exclude specified income from apprenticeship or pre-apprenticeship programs for the purposes of determining CalWORKs eligibility. *This bill is pending before this Committee and is set to be heard on April 18, 2023.*

AB 1004 (Calderon), Chapter 99, Statutes of 2021, deleted requirements that, in order to be exempt from being considered income under the CalWORKs program, income or stipends related to the decennial census must be earned on the year of or year prior to a census, so that all such income or stipends may be exempted, regardless of when it is earned, and made those changes effective immediately.

AB 807 (Bauer-Kahan), Chapter 440, Statutes of 2019, exempted certain income, including certain scholarships and income for work on the decennial census, from being counted as income for purposes of determining CalWORKs eligibility and benefit amounts

REGISTERED SUPPORT / OPPOSITION:

Support

uAspire (Co-Sponsor)
Western Center on Law & Poverty (Co-Sponsor)
AFSCME AFL-CIO
Associated Student of The University of California, Davis
Association of Independent California Colleges & Universities (AICCU)
Cal State Student Association
California Catholic Conference
California Family Resource Association
California Student Aid Commission
Center for Public Interest Law/Children's Advocacy Institute/University of San Diego
Child Abuse Prevention Center
Children Now
Coalition of California Welfare Rights Organizations
County Welfare Directors Association of California (CWDA)
Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners
Faculty Association of California Community Colleges
Friends Committee on Legislation of California
Go Public Schools
Health Net
Health Net and Its Affiliated Companies
John Burton Advocates for Youth
Los Angeles United Methodist Foundation
SBCS Strengthening Communities
Southern California College Attainment Network
University of California Student Association
Young Invincibles

Opposition

None on file

Analysis Prepared by: Alexandria Smith / HUM. S. / (916) 319-2089