

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 712 (Wendy Carrillo) – As Amended March 16, 2023

**SUBJECT:** CalFresh: hot and prepared foods

**SUMMARY:** Requires the California Department of Social Services (CDSS) to seek all available federal waivers and approvals necessary to maximize food choices for CalFresh recipients under federal law and guidance, including to purchase hot foods or hot food products ready for immediate consumption.

**EXISTING LAW:**

- 1) Establishes under federal law the “Supplemental Nutrition Assistance Program” (SNAP) pursuant to the Food Stamp Act of 1964. (7 United States Code [USC] Section 2011 *et seq.*)
- 2) Establishes the “CalFresh” program to administer the provision of federal SNAP benefits to families and individuals meeting certain criteria, as specified. (Welfare and Institutions Code Section [WIC] 18900 *et seq.*)
- 3) Defines “eligible food” as: any food or food product intended for human consumption, except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption; seeds and plants to grow foods for the personal consumption of eligible households; meals prepared and delivered by an authorized meal delivery services to households eligible to use SNAP benefits to purchase delivered meals, or meals served by an authorized communal dining facility for the elderly, for Social Security Income households or both, to households eligible to use SNAP benefits for communal dining, among others, as specified. (7 Code of Federal Regulations 271.2)
- 4) Establishes the “Restaurant Meals Program” (RMP) under SNAP to allow eligible recipients who are experiencing homelessness, are elderly, or have a disability to purchase hot, prepared food from participating restaurants. (7 USC 2020, WIC 18919 *et seq.*)
- 5) Specifies “restaurant” includes, but is not limited to, an on-campus qualifying food facility, an eat-in establishment, a grocery store delicatessen, and a takeaway-only restaurant (WIC 18919(g))

**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.

The primary goal of CalFresh is to provide food access to low-income individuals who meet certain eligibility criteria. CalFresh benefits are federally funded, and administration at the federal level lies with the United States Department of Agriculture (USDA); as such, it is the responsibility of the USDA to set specific eligibility requirements for SNAP programs across the country in addition to the gross and net income tests, work requirements, and other documentation requirements that is prescribed by the USDA. 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.

*Restaurant Meals Program.* Federal SNAP rules prohibit the purchase of certain items, such as alcohol, vitamins and medicines, pet foods, food that will be eaten in the store, and hot foods. The RMP is a state option that permits certain CalFresh recipients who may not have the ability to prepare meals for themselves to purchase ready-to-eat food. To be eligible for the RMP, an individual must be an adult age 60 or older, have a disability, or be experiencing homelessness. Since implementing the RMP, California has taken several steps to remove barriers to the RMP:

- AB 1894 (Weber), Chapter 746, Statutes of 2018, changed the RMP provisions for higher education institutions and allowed CDSS to enter into an agreement with a California State University (CSU) to provide benefits on campus even if the local county had not opted in.
- AB 942 (Weber), Chapter 814, Statutes of 2019, required that the state implement RMP as a statewide program, and as a result, restaurant vendors who are federally approved may participate in RMP within all 58 counties.
- AB 612 (Weber), Chapter 804, Statutes of 2019, allowed CDSS to enter into an agreement with the Chancellor of the California Community Colleges (CCC) in order to allow any qualifying food facility located on a CCC campus to participate in the RMP, even if the CCC campus is located in a county that does not participate in the RMP.

In 2022, AB 2100 (Carrillo) sought to expand the RMP to all CalFresh recipients, to the extent permitted by federal law, and, further, would have required CDSS to seek all necessary waivers from the USDA to implement the expansion of the RMP. AB 2100 also would have expanded the definition of “restaurant” to include a location within a grocery store where one can purchase ready-to-eat foods, as well as military commissaries.

*CalFresh flexibility in response to natural disasters.* On January 8, 2023, President Biden issued a major disaster declaration due to severe winter storms, power outages, and flooding in California that began on December 27, 2022. As a result of these storms, many impacted residents were forced to evacuate to temporary housing arrangements and shelters; as such, many residents lost the ability to store food and lost access to cooking facilities. On January 27, 2023, CDSS submitted a request to the USDA to amend the federal definition of “food” to permit impacted residents to purchase hot foods. On January 27, 2023, the USDA approved the request and permitted residents in the counties of Merced, Monterey, Sacramento, San Luis Obispo, San Joaquin, Santa Barbara, Santa Cruz, Alameda, Alpine, Amador, Contra Costa, El Dorado, Fresno, Kern, Kings, Madera, Mariposa, Placer, San Benito, Santa Clara, San Francisco, Solano,

Stanislaus, Sutter, Tuolumne, Ventura, and Yolo to temporarily purchase hot foods until February 20, 2023. The flexibility was later expanded to include the counties of Glenn, Humboldt, Lake, Los Angeles, Mendocino, Sonoma, Tehama, and Trinity.

*White House Conference on Hunger, Nutrition, and Health.* On September 28, 2022, the Biden Administration hosted the White House Conference on Hunger, Nutrition, and Health in order to determine a coordinated strategy to accelerate progress in ending hunger, improving nutrition and physical activities, and end the disparities surrounding them. The conference was based on five pillars aimed at identifying actions that local, state, and federal government, nonprofit and community groups, and private companies can take. The pillars included:

- Improve food access and affordability;
- Integrate nutrition and health;
- Empower all consumers to make and have access to healthy choices;
- Support physical activity for all; and,
- Enhance nutrition and security research.

The provisions of this bill seek to build upon the pillars of the White House Conference on Hunger, Nutrition, and Health, as well as the temporary flexibility afforded to California counties amidst severe winter storms, and would require CDSS to seek all available federal waivers and approvals necessary to maximize food choices for CalFresh recipients, including the ability to purchase hot foods or hot food products ready for immediate consumption.

**Author’s Statement:** According to the author, “[This bill] would allow CalFresh recipients to purchase ready-to-eat hot and prepared food at grocery stores allowing for healthier food options for the 4.8 million Californians enrolled in the program. That’s 1 in 8 people, many of whom experience food insecurity. For example, a CalFresh recipient is able to buy a frozen chicken, but not a rotisserie chicken, while at the same time, an EBT card can be used at a fast food restaurant which increases obesity and creates other health problems. The federal government allows for a waiver during declared emergencies, which was recently provided to California due to floods and extreme storms. [This bill] would create a pathway for California to seek a permanent waiver and provide permanent, healthier food choices for children and families.”

**Need for this bill:** The provisions of this bill seek to maximize food access for all CalFresh recipients, not just those who are currently able to purchase hot and prepared foods due to their eligibility for the RMP. Specifically, this bill would require CDSS to seek all available federal waivers and approvals that would permit CalFresh recipients to purchase hot foods or hot food products ready for immediate consumption. Through these waivers, CalFresh recipients in California may experience decreased food insecurity by increasing the options available to CalFresh recipients for purchase.

**Equity Implications:** In order to qualify for CalFresh benefits, household gross annual income may not exceed 200% of the FPL; a household of three may not earn more than \$46,080 annually. As a result, CalFresh serves low-income Californians who rely on food supports to meet their nutritional needs. For vulnerable populations, such as older adults, individuals with disabilities, and individuals experiencing homelessness, the RMP provides flexibility to account

for the fact that these populations may not have the ability to prepare food, or may not have access to the necessary equipment to prepare food. However, for many CalFresh recipients who do not meet the criteria to utilize the RMP, the lack of flexibility to purchase hot and prepared foods can pose a barrier to individuals who may not have the time necessary to purchase ingredients and prepare meals, particularly when those individuals may work multiple jobs to make ends meet.

Originally, limits were placed on the way food benefits could be used in order to ensure recipients were purchasing and preparing healthy, nutritious foods. By restricting the ability to purchase hot and prepared foods, SNAP guidelines sought to prevent benefits recipients from using benefits at fast food restaurants. However, the way in which Americans purchase and eat foods has evolved since SNAP guidelines were originally adopted. For example, many grocery stores provide ready to eat/heat meals that provide adequate nutrition for individuals who may not have time to prepare an entire meal; individuals who may have a quick, thirty-minute lunch break, or employees who are on their way to or from work. Under existing CalFresh rules, these individuals may not purchase a prepared sandwich or prepackaged salad unless they meet the eligibility criteria for the RMP.

The provisions of this bill seek to ensure equity within the CalFresh program by ensuring all CalFresh recipients have access to modern convenience that still meet a person's nutritional needs.

**Policy Considerations:** While the recent waiver permitting CalFresh recipients in eligible counties to purchase hot and prepared foods was approved due to winter storms and the related disasters, it is unclear whether there are additional existing federal waivers that would permit this flexibility in an ongoing manner. Because the provisions of this bill would require CDSS to seek all available federal waivers, it is unclear what specific waivers the provisions of this bill would require CDSS to seek. Should this bill move forward, the author may wish to consider amending the bill to require CDSS to apply for a permanent, ongoing waiver until such a time that federal law permits all CalFresh recipients to purchase hot and prepared foods.

#### **RELATED AND PRIOR LEGISLATION:**

**AB 2100 (Carrillo) of 2022**, would have required CDSS to apply for federal waivers, and, if granted, expand the RMP to include all CalFresh recipients. The bill also would have expanded the locations where CalFresh benefits under the RMP could be used. *AB 2100 was held in the Senate Appropriations Committee.*

**AB 942 (Weber), Chapter 814, Statutes of 2019**, establishes the "Access to Safe Food Choices and Food Security Act of 2019" to establish a statewide RMP, as specified.

**AB 612 (Weber), Chapter 804, Statutes of 2019**, allows CDSS to enter into an agreement with the Chancellor of the California Community Colleges (CCC) in order to allow any qualifying food facility located on a CCC campus to participate in the RMP, even if the CCC campus is located in a county that does not participate in the RMP.

**AB 1894 (Weber), Chapter 746, Statutes of 2018**, allowed CDSS to enter into a memorandum of understanding with the CSU Chancellor in order to allow any qualifying food facility located on a CSU campus to participate in the RMP, even if the CSU campus is located in a county that does not participate in the RMP.

**AB 282 (Wiener), Chapter 355, Statutes of 2017**, required CDSS to communicate with counties regarding how to participate in the RMP, among other things.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Association of Food Banks (Co-Sponsor)  
GRACE Institute - End Child Poverty in CA (Co-Sponsor)  
Hunger Action LA (Co-Sponsor)  
California Food and Farming Network  
Central California Food Bank  
Community Action Partnership of Orange County  
County Welfare Directors Association of California (CWDA)  
EdVoice  
Food Bank Coalition of San Luis Obispo County  
Food for People, the Food Bank for Humboldt County  
Food Share  
GLIDE  
Kipp SoCal Public Schools  
Law Foundation of Silicon Valley  
Los Angeles Regional Food Bank  
Polo's Pantry  
Sacramento Food Bank & Family Services  
San Diego Hunger Coalition  
San Francisco-Marin Food Bank  
Second Harvest Food Bank of Orange County  
Second Harvest of Silicon Valley  
Yolo Food Bank

**Opposition**

None on file

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