S T A T E O F N E W Y O R K

5673

2011-2012 Regular Sessions

I N S E N A T E

June 9, 2011

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to establishment of the supplemental nutrition assistance program (SNAP)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 95 of the social services law, as added by chapter 225 of the laws of 1965, subdivisions 1, 2 and 3 as amended by chapter 1015 of the laws of 1969, subdivision 6 as added by chapter 22 of the laws of 1983, subdivisions 7 and 8 as added by chapter 452 of the laws of 1986, subdivision 9 as added by section 53 and subdivision 10 as added by section 148-b of part B of chapter 436 of the laws of 1997, paragraphs (b) and (k) of subdivision 10 as amended by chapter 360 of the laws of 2003 and subdivision 11 as added by chapter 333 of the laws of 2002, is amended to read as follows:

S 95. [Food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program (SNAP). 1. (a) The [department] OFFICE is authorized to submit [the] ANY plan required by the federal [food stamp act of nineteen hundred sixty-four,] GOVERNMENT TO PARTICIPATE IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) to the secretary of the [federal] UNITED STATES department of agriculture for approval, and to act for the state in any negotiations relative to the submission and approval of such plan, and may make such arrangements and take such action, not inconsistent with law, as may be required to obtain and retain such approval, to implement such plan, and to secure for the state the benefits available [under such act].

(b) The [department] OFFICE is authorized to accept a designation, in accordance with the provisions of section twenty-nine OF THIS CHAPTER, under any other federal law which may make [food stamps] SNAP BENEFITS available for needy families and individuals, and to perform such func-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD10821-03-1

tions as may be appropriate, permitted or required by or pursuant to such law.

2. The [department] OFFICE is empowered, with the consent and approval of the governor, to delegate or assign to any other [department] OFFICE or agency of the state the performance of such function or functions under the plan or designation as may be appropriate and permitted or required by the appropriate federal law or regulations. Any state department or agency is hereby empowered and required to perform the function or functions so delegated or assigned to it.

3. (a) Each commissioner of social services is authorized and required, in accordance with regulations of the [department] OFFICE, to make application for inclusion of his OR HER social services district in the federal [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM plan or plans and to assist needy families and individuals of his OR HER social services district to obtain nutritionally adequate diets through participation in such federal [food stamp] plan or plans. However, only those persons who qualify for [food stamps] SNAP BENEFITS in accordance with federal and state requirements, and standards promulgated by the [department] OFFICE, shall be certified as eligible to receive such [stamps] BENEFITS.

(b) Each commissioner of social services is authorized and required, subject to state and federal requirements therefor, to act on behalf of the [department] OFFICE and receive, store, and issue [food stamps] SNAP BENEFITS, either directly, or with the approval of the [department] OFFICE, through a banking institution and/or other appropriate public or private agency.

(c) Each commissioner of social services shall develop and submit to the [department] OFFICE for its approval a plan describing his OR HER district's operations under this section, which plan shall accord with federal and state requirements.

4. A person's need or eligibility for public assistance and care shall not be affected by his OR HER receipt of [food stamps] SNAP BENEFITS.

5. Any inconsistent provision of law notwithstanding, the value of any [free food stamps] SNAP BENEFITS provided an eligible person shall not be considered income or resources for any purpose, including taxation.

6. (a) Any inconsistent provision of law notwithstanding, expenditures made by a social services district for the purpose of certifying eligibility of needy families and individuals, including those who are not in receipt of public assistance and care, for [food stamps] SNAP BENEFITS, and for distributing and redeeming such [stamps] BENEFITS shall be deemed to be expenditures for the administration of public assistance and care, and shall be subject to reimbursement by the state in accordance with the provisions of section one hundred fifty-three of this chapter to the extent of one hundred percent in accordance with paragraph (b) of this subdivision.

(b) Such expenditures for [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM administrative costs shall be subject to reimbursement by the state in accordance with regulations to be promulgated by the [department] OFFICE, which regulations shall be subject to the approval of the director of the budget, shall be consistent with federal law and regulations, and shall be based on:

(i) an allocation of administrative costs attributable to both [food stamps] SNAP BENEFITS and [home relief] SAFETY NET ASSISTANCE to permit maximum use of federal funds; and

(ii) an allocation of administrative costs attributable to both [food stamps] SNAP BENEFITS and [aid to dependent children] TEMPORARY ASSIST-

ANCE FOR NEEDY FAMILIES such that only those administrative costs that cannot be allocated to [aid to dependent children] TEMPORARY ASSISTANCE FOR NEEDY FAMILIES are allocated to [the food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program, provided, however, that if federal law, regulations, or cost allocation procedures require those administrative costs that may be allocated to be allocated between [aid to dependent children] TEMPORARY ASSISTANCE FOR NEEDY FAMILIES and [food stamps] SNAP BENEFITS, then the administrative costs so allocated to [food stamps] SNAP BENEFITS shall be reimbursed as costs of public assistance and care in accordance with the provisions of paragraphs a and d of subdivision one of section one hundred fifty-three of this chapter.

7. When an eligible recipient under this section is issued an authorization to participate in the [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program by written or electronic means, such authorization to participate may be redeemed for [food stamp program coupons] SNAP BENEFITS at designated redemption centers by the recipient or by an authorized representative. When an eligible recipient under this section is issued [food stamp program coupons] SNAP BENEFITS, such [food stamp program coupons] SNAP BENEFITS may be used to purchase food items from a food distributor by the recipient or by an authorized representative. Any other transfer or sale of authorizations to participate or [food stamp program coupons] SNAP BENEFITS shall constitute an unauthorized use of said authorizations or [coupons] BENEFITS. For the purposes of this subdivision, "authorized representative" shall be defined in regulations promulgated by the commissioner.

8. Except as part of a transaction pursuant to subdivision seven of this section or as necessary for a food distributor to redeem [food stamp program coupons] SNAP BENEFITS subsequent to such a transaction, any acquisition, acceptance, purchase, possession, sale, transfer, alteration or manufacture of authorizations to participate or [food stamp program coupons] SNAP BENEFITS, real or counterfeit, by any person shall constitute an unauthorized use of said authorizations or [coupons] BENEFITS. For purposes of this subdivision, the term "person" shall mean any individual, corporation, partnership, association, agency, or other legal entity, or any part thereof.

9.(a) The parent or other individual who is living with and exercising parental control over a child under the age of eighteen who has an absent parent is not eligible to participate in the [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program if such person refuses to cooperate with the [department] OFFICE in establishing the paternity of the child (if the child is born out of wedlock) and in obtaining support for the child or the parent (or other individual) and the child. This paragraph does not apply to the parent (or other individual) if the [department] OFFICE determines that there is good cause for the refusal to cooperate.

(b) A putative or identified noncustodial parent of a child under the age of eighteen is not eligible to participate in the [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program if such individual refuses to cooperate with the [department] OFFICE in establishing the paternity of the child (if the child is born out of wedlock) and in providing support for the child. The use of the information collected pursuant to this paragraph shall be limited to the purposes for which the information is collected and is subject to the confidentiality provisions set forth in section one hundred thirty-six of this chapter.

(c) To the extent not inconsistent with federal law and regulations, an individual is not eligible to participate in the [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program as a member of any household if the

individual is under court order to pay child or combined child and spousal support and has accumulated support arrears equivalent to or greater than the amount of current support due for a period of four months.

[10. (a) Social services districts are authorized to operate a food assistance program in accordance with regulations promulgated by the office of temporary and disability assistance within the department of family assistance. Social services district participation in the food assistance program is optional. Districts opting to participate in the food assistance program shall provide written notification to the office. Such written notification shall include, but not be limited to, a statement whereby the district agrees to operate a food assistance program in accordance with federal and state statutory, regulatory and policy requirements.

(b) In order to be eligible to receive benefits in the food assistance program, a person must:

(i) be otherwise fully eligible to receive federal food stamp benefits except for the provisions of section four hundred two of the Personal Responsibility And Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) as amended by the Farm Security and Rural Investment Act of 2002 (P.L. 107-171); and

(ii) on August twenty-second, nineteen hundred ninety-six, have been living in the United States; and

(iii) (1) be identified as a victim of domestic violence through procedures outlined in section three hundred forty-nine-a of this chapter or classified as a qualified alien through application of the provisions contained in subsection (c) of 8 USC S1641; or

(2) be elderly as defined by 7 USC 2012; and

(iv) not have been absent from the United States for more than ninety days within the twelve month period immediately preceding the date of application for the food assistance program; and

(v) apply to the United States department of justice, immigration and naturalization services for United States citizenship. If the applicant for the food assistance program is eligible to apply for United States citizenship, such application shall be made no later than thirty days from the date of application for the food assistance program. If the applicant for the food assistance program is not eligible to apply for United States citizenship on the date of application for the food assistance program, such application for citizenship must be made no later than thirty days after the person becomes eligible to apply for United States citizenship in accordance with the requirements of the United States immigration and naturalization services.

(c) Social services districts shall be financially responsible for fifty percent of the non-federal share of the necessary costs of operating the food assistance program, including the cost of purchasing the food stamps and any other payments to the federal government required for participating in the program. To the extent that the office of temporary and disability assistance makes expenditures to operate the food assistance program on behalf of a social services district, the participating social services district shall reimburse the office for fifty percent of the non-federal share of such costs.

(d) Any provision of federal or state law or regulations imposing a sanction, fine, disqualification or other penalty, including criminal penalties, for any violation of such law or regulation with respect to the food stamp program shall apply to the food assistance program.

(e) The office of temporary and disability assistance is authorized to submit a plan to the federal government in accordance with federal law (P.L. 105-18) in order to secure federal approval to operate the food assistance program in accordance with that law. Such plan shall describe the conditions and procedures under which the benefits will be issued including eligibility standards, benefit levels, and the methodology the office will use to determine the payments due to the federal government.

(f) The office of temporary and disability assistance is authorized to purchase food stamps from the federal government for use in the food assistance program and to make such other expenditures as are necessary to operate the program. The office of temporary and disability assistance may operate the food assistance program using food stamp coupons or other access devices including an electronic benefit transfer card, personal identification number or debit card. To the extent that such means of benefit issuance is being used by participants in the federal food stamp program in New York state.

(g) At the time of application for the food assistance program, an applicant shall, as a condition of receiving such assistance, present proof of identity to the social services official as the office of temporary and disability assistance may require by regulation and the applicant shall provide such proof thereafter whenever required by such official. The commissioner of the social services district shall require that a recipient of food assistance benefits comply with the requirements of an automated fraud prevention system as established for recipients of public assistance and care in accordance with the provisions of this chapter. Such system shall be used to establish personally unique identification factors to prevent fraud and multiple enrollments. The social services district shall be responsible for fifty percent of the costs of establishing and operating such system in accordance with paragraph (c) of this subdivision. Personally identifying information about applicants for and recipients of the food assistance program obtained through the establishment or operation of the system by the office, social services districts or by a contractor shall be kept confidential in accordance with section one hundred thirty-six of this chapter and the regulations of the office.

(h) Any inconsistent provision of law notwithstanding, in the event the federal government assesses a penalty, sanction, or fine because of a social services district's incorrect issuance of food stamp benefits in cases where the household consists of both federally participating food stamp program recipients and recipients under the food assistance program, social services districts shall be responsible for one hundred percent of the penalty, sanction, or fine assessed by the federal government.

(i) The commissioner of the office of temporary and disability assistance is authorized to file regulations on an emergency basis that are deemed by the commissioner to be necessary to implement the food assistance program.

(j) If any clause, sentence, paragraph or subdivision of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or subdivision thereof directly involved in the controversy in which such judgement shall have been rendered.

(k) This subdivision shall be effective only when and for so long as that federal approval, as set forth in paragraph (e) of this subdivision, has been obtained. This subdivision shall terminate and cease to

be in force and effect on and after September thirtieth, two thousand five.]

[11] 10. Notwithstanding any other provision of law to the contrary, the office [of temporary and disability assistance within the department of family assistance] shall develop a brief, simplified application form for the [food stamp] SUPPLEMENTAL NUTRITION ASSISTANCE program only. The office [of temporary and disability assistance] shall develop the form in consultation with food stamp outreach organizations and consider how the form may be used to reach as many potential applicants as possible, especially those over sixty years of age and those who are employed.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.