

STATE OF NEW YORK

5880--B

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

Introduced by M. of A. DAVILA -- read once and referred to the Committee on Social Services -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to establishing the New York healthy incentive program (Part A); to amend the social services law, in relation to automating SNAP and the New York healthy incentive program (Part B); and to amend the social services law, in relation to establishing the New York healthy incentive program outreach program (Part C)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the New York healthy incentive program.
3 Each component is wholly contained within a Part identified as Parts A
4 through C. The effective date for each particular provision contained
5 within such Part is set forth in the last section of such Part. Any
6 provision in any section contained within a Part, including the effec-
7 tive date of the Part, which makes a reference to a section "of this
8 act", when used in connection with that particular component, shall be
9 deemed to mean and refer to the corresponding section of the Part in
10 which it is found. Section three of this act sets forth the general
11 effective date of this act.

12 PART A

13 Section 1. The social services law is amended by adding a new section
14 95-b to read as follows:

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

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§ 95-b. New York healthy incentive program (NYHIP). 1. Legislative findings. The legislature hereby finds and declares that healthy food incentive programs provide significant health, educational, social, and economic benefits to the general public, especially for those individuals who have historically been excluded from access to fresh produce; in food deserts where access to healthy and affordable food is limited or where there are no grocery stores; and local farmers who struggle to compete with imported goods and produce. Furthermore, it is the articulated public policy of this state to promote and foster growth in the number of farm to consumer entities accepting supplemental nutrition assistance benefits and participate in the healthy food incentive program. The healthy food incentive program provides earned dollars for supplemental nutrition assistance program recipients to spend on local healthy food that is fresh and nutritious for those who may be unable to readily afford or have easy access to fresh fruits and vegetables for themselves or their families; promotes healthier individual lifestyles by incentivizing better eating habits; fosters the retention and expansion of farm to consumer entities, particularly in food insecure environments; engenders a closer relationship between communities and local farmers; increases capacity for local farms; and stimulates local economies. It is therefore the intent of the legislature and the purpose of this section to create a state operated healthy food incentive program, known as the New York healthy incentive program (NYHIP), for all SNAP recipients and local economies across the state.

2. Definitions. For the purposes of this section and section ninety-five-c of this title:

a. "Office" shall mean the office of temporary and disability assistance.

b. "Commissioner" shall mean the commissioner of the office of temporary and disability assistance.

c. "Farm to consumer entities" shall mean any sort of enterprise that allows local farmers to sell their produce and other products directly to the consumer, such as farmers markets, co-ops, locally sourced community owned grocery stores, and community supported agriculture, as determined by the commissioner with input from the commissioner of agriculture and markets.

d. "Local" or "locally" shall mean located within the state of New York, however, if neighboring states create their own healthy incentive programs the office may make agreements of reciprocity to allow SNAP beneficiaries to earn dollar rewards for the purchase of healthy foods from such neighboring state and may place a boundary limitation based on distance from state lines.

e. "Local healthy food" shall mean any agricultural product that provides nutritional support to humans such as produce, dairy, meat and processed foods that must consist of ingredients that are grown and cultivated in the state of New York, but may be processed elsewhere. For the purposes of this paragraph, "processed foods" shall mean any raw agricultural commodities that have been milled, cut, chopped, heated, pasteurized, blanched, cooked, canned, frozen, dried, dehydrated, or mixed, and shall consist of at least seventy-five percent of local ingredients.

f. "Similarly situated entities" shall mean stores of any size that have agreed to and signed a memorandum of understanding detailing how they will prioritize sourcing produce and other healthy foods locally, agree to goal metrics to increase their ability to locally source, and meet those metrics to maintain their healthy food incentive program

1 participation. For the purposes of this paragraph, "stores" shall mean
2 any not farm to consumer produce retailer that is currently authorized
3 as an electronic benefit transfer retailer, such as grocery stores,
4 corner stores, bodegas, food marts, food stores, convenience stores, or
5 markets.

6 g. "SNAP card" or "SNAP benefit card" shall mean any electronic method
7 in which the supplemental nutrition assistance program is administered
8 to beneficiaries on a credit or debit card, including through the elec-
9 tronic benefit transfer system described in section twenty-one-a of this
10 chapter.

11 3. Office powers and duties to promulgate program. a. The office is
12 directed to apply for any necessary grant or waiver to participate in
13 the Gus Schumacher Nutrition Incentive Program or similar grant adminis-
14 tered by the United States Department of Agriculture and the National
15 Institute of Food and Agriculture for approval, and to act for the state
16 in any negotiations relative to the submission and approval of such
17 plan, waiver, or grant, and shall make such arrangements and take such
18 action, not inconsistent with law, as may be required to obtain and
19 retain such approval, to implement such plan, waiver, or grant and to
20 secure for the state the benefits available.

21 b. The office shall actively search for, find and apply for grants and
22 other streams of funding to promulgate this section and fund this
23 program.

24 c. The office shall promulgate rules and regulations and take all
25 other actions necessary for the effective creation and implementation of
26 NYHIP, providing earned dollars for SNAP beneficiaries to spend on local
27 healthy food that is fresh and nutritious, in accordance with this
28 section. Nothing in this section shall prohibit or limit the commis-
29 sioner's ability to expand access to NYHIP to all New Yorkers, so long
30 as it continues to prioritize the earned dollars used to buy locally
31 grown healthy foods. Nothing in this section shall prohibit or limit the
32 office from including New York grown and certified foods, as created by
33 section one hundred fifty-six-h of the agriculture and markets law, from
34 being included in NYHIP. NYHIP shall include the following:

35 i. A fixed earned dollar amount for the purchase of fresh locally
36 grown healthy foods using SNAP;

37 ii. Automation of earned dollar amounts on SNAP cards;

38 iii. Automation of SNAP benefit cards so SNAP beneficiaries are able
39 to participate in local community supported agriculture subscriptions
40 and earn NYHIP dollars;

41 iv. Ensuring NYHIP is available at all farm to consumer entities and
42 similarly situated entities by encouraging them to participate;

43 v. Connecting farm to consumer entities and similarly situated enti-
44 ties with the necessary resources and technology to participate in
45 NYHIP;

46 vi. Regular updates and maintenance of the mobile application and
47 website; and

48 vii. Creation and maintenance of a NYHIP outreach program to ensure
49 all SNAP beneficiaries are aware of the opportunity to participate in
50 such program.

51 d. The office may contract with outside entities to effect the imple-
52 mentation and promulgation of NYHIP and shall give greater weight to
53 entities that manage healthy incentive programs in the state when deter-
54 mining contract award.

55 e. The office shall establish a grant program, for farmers, farmers
56 markets, and community-supported agriculture partnerships, in attaining

1 any technology needed to take payment from SNAP beneficiaries and
2 participate in NYHIP. The office, in consultation with the department of
3 agriculture and markets, shall establish an outreach program for farm-
4 ers, farmers markets, and community-supported agriculture partnerships
5 to be informed of NYHIP and the availability of the technological grant
6 described above.

7 4. NYHIP mobile application, website and interactive map. a. i. The
8 office shall establish a mobile application and website to promote NYHIP
9 and locations available to SNAP recipients across the state and promote
10 farm to consumer entities that take SNAP. The mobile application and
11 website shall include, but is not limited to:

12 A. Name, location, hours of operation, contact information, and hyper-
13 links, as available, to all farm to consumer entities that sell locally
14 grown healthy food and accept SNAP benefits; and

15 B. Name, location, hours of operation, contact information, and hyper-
16 links, as available, to all farmers markets, mobile markets, community
17 supported agriculture, or similarly situated entities that sell locally
18 grown healthy food that are participants of NYHIP.

19 ii. The mobile application and website should have an interactive map
20 where a user may find farm to consumer entities that take SNAP and are
21 NYHIP participants. This information should also be searchable by
22 town/city, county, region or any other criteria the commissioner deems
23 relevant.

24 iii. The mobile application and website should make clear distinctions
25 between farm to consumer entities that just take SNAP and those that are
26 participants of NYHIP.

27 b. Each commissioner of social services shall provide information
28 regarding NYHIP on their website and hyperlinks to this interactive
29 website and where to download the mobile application on the SNAP pages
30 of all social services websites.

31 c. The office shall establish procedures for farm to consumer entities
32 that accept SNAP benefits and NYHIP to provide the updated information
33 detailed above for the mobile application and website. In developing
34 such procedures, the office shall provide a system in which the informa-
35 tion required in the mobile application and website is updated monthly
36 and continuous maintenance is provided.

37 d. The office shall promulgate rules and regulations and take all
38 other actions necessary for the effective implementation of this
39 section. Nothing in this section shall prohibit or limit the depart-
40 ment's ability to expand access to the NYHIP incentive program map to
41 all New Yorkers.

42 § 2. This act shall take effect immediately.

43 PART B

44 Section 1. Section 95 of the social services law is amended by adding
45 a new subdivision 12 to read as follows:

46 12. (a) The office shall promptly seek any necessary approvals from
47 the United States department of agriculture food and nutrition service
48 (USDA) to automate the use of SNAP benefit cards to streamline the proc-
49 ess for potential and current recipients to participate in locally grown
50 fresh food subscription services, such as community supported agricul-
51 ture partnerships, by conducting an automatic deduction on a weekly
52 basis. The office shall also create an automation process for the New
53 York healthy incentive program (NYHIP) as prescribed in section ninety-
54 five-b of this title, by allowing the state to add the accrued incen-

1 tives directly to a SNAP card. Once the office receives the waiver, the
2 office shall work with the USDA and NYHIP to ensure that any incentives
3 accrued are used by SNAP beneficiaries to purchase local food that is
4 fresh and nutritious for those who may be unable to readily afford or
5 have easy access to fresh fruits and vegetables for themselves or their
6 families. The office shall promptly seek any necessary approvals from
7 the USDA in order to maximize availability of NYHIP purchasing options
8 throughout the state.

9 (b) The office shall ensure SNAP beneficiaries and locally grown fresh
10 food subscription services, such as community supported agriculture
11 partnerships, are held harmless under situations in which SNAP benefi-
12 ciaries lose benefits during their subscription contract. The office shall
13 honor the entirety of the subscription service contract at the expense
14 of the state.

15 (c) Within one hundred eighty days after the effective date of this
16 subdivision, the office shall apply for a waiver or any other necessary
17 measure to the USDA to automate the use of SNAP in the state to stream-
18 line NYHIP and increase access to locally grown CSA subscriptions.

19 (d) For the purposes of this subdivision, "community supported agri-
20 culture partnerships" or "CSA" shall mean a system that connects farmers
21 and consumers by allowing the consumer to invest in farmers by subscrib-
22 ing to a harvest of a certain farm or group of farms, usually done by
23 crop season but may be year round.

24 § 2. This act shall take effect immediately.

25 PART C

26 Section 1. The social services law is amended by adding a new section
27 95-c to read as follows:

28 § 95-c. New York healthy incentive program (NYHIP) outreach program.

29 1. In accordance with federal requirements and to the extent that
30 federal matching funds are available, the office shall develop and
31 implement an outreach plan to inform low-income households potentially
32 eligible to receive food stamps and participate in NYHIP to encourage
33 the participation of eligible households that wish to participate.

34 2. In developing and implementing such a plan the office is authorized
35 and empowered, subject to the approval of the director of the budget and
36 provided that federal aid is available therefor, to enter into contrac-
37 tual agreements with public and/or private organizations to develop and
38 implement local, regional, and statewide outreach programs.

39 3. Each commissioner of social services shall develop and submit to
40 the office on an annual basis for its approval, a local outreach plan
41 governing the use of local social services personnel and services
42 provided by federally funded and other agencies and organizations to
43 inform potentially eligible households of the availability and benefits
44 of NYHIP and to encourage and facilitate the participation of eligible
45 households. The office shall provide commissioners of social services
46 with technical assistance as needed to carry out the provisions of this
47 subdivision.

48 4. As part of each local outreach plan, social services officials
49 shall take all steps necessary to maintain a supply of information leaf-
50 lets in public buildings, including but not limited to local unemploy-
51 ment insurance and employment services offices of the department of
52 labor, institutions and facilities under the supervision or control of
53 the department of health, food stores, union halls, community centers,
54 entities participating in NYHIP, and local agencies providing services

1 to the elderly to help ensure that eligible persons are informed of the
2 supplemental nutrition assistance program and NYHIP. Additionally, as
3 part of the local outreach plan, social services officials shall ensure
4 that every new supplemental nutrition assistance program applicant
5 receives information on NYHIP upon submission of an application and
6 shall provide such information in the home language of the applicant
7 pursuant to any federal and state laws, rules and regulations.

8 5. The office shall periodically distribute to all newspapers, and to
9 television and radio stations throughout the state, public service
10 announcements describing NYHIP, including the NYHIP interactive map and
11 website, and shall promptly inform such media of significant changes in
12 the program affecting eligibility requirements and/or the amount of
13 NYHIP earnings.

14 6. The office shall establish procedures in cooperation with the
15 industrial commissioner of the department of labor to ensure that infor-
16 mational leaflets about NYHIP are sent to each local employment services
17 office for distribution pursuant to section five hundred forty of the
18 labor law. Each leaflet shall include, but not be limited to: the phone
19 number for the New York state food stamp hotline; how to access the
20 NYHIP website and interactive map; how SNAP beneficiaries earn NYHIP
21 benefits buying local healthy foods; estimated maximum income eligibil-
22 ity levels by household size for participation in SNAP; and the avail-
23 ability of local social services departments to provide additional
24 information about NYHIP.

25 7. In accordance with applicable federal and state laws, rules and
26 regulations, the office shall make available appropriate translated
27 materials so that potentially eligible non-English speaking individuals
28 may be informed about NYHIP.

29 8. The office shall promulgate rules and regulations and take all
30 other actions necessary for the effective implementation of this
31 section.

32 § 2. This act shall take effect immediately.

33 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
34 sion, section or part of this act shall be adjudged by any court of
35 competent jurisdiction to be invalid, such judgment shall not affect,
36 impair, or invalidate the remainder thereof, but shall be confined in
37 its operation to the clause, sentence, paragraph, subdivision, section
38 or part thereof directly involved in the controversy in which such judg-
39 ment shall have been rendered. It is hereby declared to be the intent of
40 the legislature that this act would have been enacted even if such
41 invalid provisions had not been included herein.

42 § 3. This act shall take effect immediately; provided, however, that
43 the applicable effective date of Parts A through C of this act shall be
44 as specifically set forth in the last section of such Parts.