STATE OF NEW YORK

5880--A

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

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:

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

PART A

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

§ 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 individ-

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

LBD05297-03-3

uals 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. a. "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.

b. "Local" or "locally" shall mean located within the state of New York, however, if neighboring states create their own healthy incentive programs the department 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.

c. "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.

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

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

3. Department powers and duties to promulgate program. a. The department is directed to apply for any necessary grant or waiver to participate in the Gus Schumacher Nutrition Incentive Program or similar grant administered by the United States Department of Agriculture and the National Institute of Food and Agriculture for approval, and to act for the state in any negotiations relative to the submission and approval of such plan, waiver, or grant, and shall 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, waiver, or grant and to secure for the state the benefits available.

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

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

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

ii. Automation of earned dollar amounts on SNAP cards;

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

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

v. Connecting farm to consumer entities and similarly situated entities with the necessary resources and technology to participate in NYHIP;

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

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

d. The department may contract with outside entities to effect the implementation and promulgation of NYHIP and shall give greater weight to entities that manage healthy incentive programs in the state when determining contract award.

e. The department shall establish a grant program, for farmers, farmers markets, and community-supported agriculture partnerships, in attaining any technology needed to take payment from SNAP beneficiaries and participate in NYHIP. The department, in consultation with the department of agriculture and markets, shall establish an outreach program for farmers, farmers markets, and community-supported agriculture partnerships to be informed of NYHIP and the availability of the technological grant described above.

4. NYHIP mobile application, website and interactive map. a. i. The department shall establish a mobile application and website to promote NYHIP and locations available to SNAP recipients across the state and

promote farm to consumer entities that take SNAP. The mobile application and website shall include, but is not limited to:

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

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

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

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

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

c. The department shall establish procedures for farm to consumer entities that accept SNAP benefits and NYHIP to provide the updated information detailed above for the mobile application and website. In developing such procedures, the department shall provide a system in which the information required in the mobile application and website is updated monthly and continuous maintenance is provided.

d. The department shall promulgate rules and regulations and take all other actions necessary for the effective implementation of this section. Nothing in this section shall prohibit or limit the department's ability to expand access to the NYHIP incentive program map to all New Yorkers.

§ 2. This act shall take effect immediately.

PART B

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

12. (a) The office shall promptly seek any necessary approvals from the United States department of agriculture food and nutrition service (USDA) to automate the use of SNAP benefit cards to streamline the process for potential and current recipients to participate in locally grown fresh food subscription services, such as community supported agriculture partnerships, by conducting an automatic deduction on a weekly basis. The office shall also create an automation process for the New York healthy incentive program (NYHIP) as prescribed in section ninety-five-b of this title, by allowing the state to add the accrued incentives directly to a SNAP card. Once the office receives the waiver, the office shall work with the USDA and NYHIP to ensure that any incentives accrued are used by SNAP beneficiaries to purchase local 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. The office shall promptly seek any necessary approvals from the USDA in order to maximize availability of the NYHIP purchasing options throughout the state.

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

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

(d) For the purposes of this subdivision, "community supported agriculture partnerships" or "CSA" shall mean a system that connects farmers and consumers by allowing the consumer to invest in farmers by subscribing to a harvest of a certain farm or group of farms, usually done by crop season but may be year round.

§ 2. This act shall take effect immediately.

PART C

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

§ 95-c. New York healthy incentive program (NYHIP) outreach program. 1. In accordance with federal requirements and to the extent that federal matching funds are available, the department shall develop and implement an outreach plan to inform low-income households potentially eligible to receive food stamps and participate in NYHIP to encourage the participation of eligible households that wish to participate.

2. In developing and implementing such a plan the department and its local districts are authorized and empowered, subject to the approval of the director of the budget and provided that federal aid is available therefor, to enter into contractual agreements with public and/or private organizations to develop and implement local, regional, and statewide outreach programs.

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

4. As part of each local outreach plan, social services officials shall take all steps necessary to maintain a supply of information leaflets in public buildings, including but not limited to local unemployment insurance and employment services offices of the department of labor, institutions and facilities under the supervision or control of the department of health, food stores, union halls, community centers, entities participating in NYHIP, and local agencies providing services to the elderly to help ensure that eligible persons are informed of the supplemental nutrition assistance program and NYHIP. Additionally, as part of the local outreach plan, social services officials shall ensure that every new supplemental nutrition assistance program applicant receives information on NYHIP upon submission of an application and shall provide such information in the home language of the applicant pursuant to any federal and state laws, rules and regulations.

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

6. The department shall establish procedures in cooperation with the industrial commissioner of the department of labor to ensure that informational leaflets about NYHIP are sent to each local employment services office for distribution pursuant to section five hundred forty of the labor law. Each leaflet shall include, but not be limited to: the phone number for the New York state food stamp hotline; how to access the NYHIP website and interactive map; how SNAP beneficiaries earn NYHIP benefits buying local healthy foods; estimated maximum income eligibility levels by household size for participation in SNAP; and the availability of local social services departments to provide additional information about NYHIP.

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

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

§ 2. This act shall take effect immediately.

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

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