

# STATE OF NEW YORK

3069

2023-2024 Regular Sessions

## IN SENATE

January 27, 2023

Introduced by Sen. PERSAUD -- 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 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:

15 § 95-b. New York healthy incentive program (NYHIP). 1. Legislative  
16 findings. The legislature hereby finds and declares that healthy food  
17 incentive programs provide significant health, educational, social, and  
18 economic benefits to the general public, especially for those individ-  
19 uals who have historically been excluded from access to fresh produce;

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

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1 in food deserts where access to healthy and affordable food is limited  
2 or where there are no grocery stores; and local farmers who struggle to  
3 compete with imported goods and produce. Furthermore, it is the artic-  
4 ulated public policy of this state to promote and foster growth in the  
5 number of farm to consumer entities accepting supplemental nutrition  
6 assistance benefits and participate in the healthy food incentive  
7 program. The healthy food incentive program provides earned dollars for  
8 supplemental nutrition assistance program recipients to spend on local  
9 healthy food that is fresh and nutritious for those who may be unable to  
10 readily afford or have easy access to fresh fruits and vegetables for  
11 themselves or their families; promotes healthier individual lifestyles  
12 by incentivizing better eating habits; fosters the retention and expan-  
13 sion of farm to consumer entities, particularly in food insecure envi-  
14 ronments; engenders a closer relationship between communities and local  
15 farmers; increases capacity for local farms; and stimulates local econo-  
16 mies. It is therefore the intent of the legislature and the purpose of  
17 this section to create a state operated healthy food incentive program,  
18 known as the New York healthy incentive program (NYHIP), for all SNAP  
19 recipients and local economies across the state.

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

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

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

41 d. "Similarly situated entities" shall mean stores of any size that  
42 have agreed to and signed a memorandum of understanding detailing how  
43 they will prioritize sourcing produce and other healthy foods locally,  
44 agree to goal metrics to increase their ability to locally source, and  
45 meet those metrics to maintain their healthy food incentive program  
46 participation. For the purposes of this paragraph, "stores" shall mean  
47 any not farm to consumer produce retailer that is currently authorized  
48 as an electronic benefit transfer retailer, such as grocery stores,  
49 corner stores, bodegas, food marts, food stores, convenience stores, or  
50 markets.

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

1 3. Department powers and duties to promulgate program. a. The depart-  
2 ment is directed to apply for any necessary grant or waiver to partic-  
3 ipate in the Gus Schumacher Nutrition Incentive Program or similar grant  
4 administered by the United States Department of Agriculture and the  
5 National Institute of Food and Agriculture for approval, and to act for  
6 the state in any negotiations relative to the submission and approval of  
7 such plan, waiver, or grant, and shall make such arrangements and take  
8 such action, not inconsistent with law, as may be required to obtain and  
9 retain such approval, to implement such plan, waiver, or grant and to  
10 secure for the state the benefits available.

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

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

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

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

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

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

34 v. Connecting farm to consumer entities and similarly situated enti-  
35 ties with the necessary resources and technology to participate in  
36 NYHIP;

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

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

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

46 e. The department shall establish a grant program, for farmers, farm-  
47 ers markets, and community-supported agriculture partnerships, in  
48 attaining any technology needed to take payment from SNAP beneficiaries  
49 and participate in NYHIP. The department, in consultation with the  
50 department of agriculture and markets, shall establish an outreach  
51 program for farmers, farmers markets, and community-supported agricul-  
52 ture partnerships to be informed of NYHIP and the availability of the  
53 technological grant described above.

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

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

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

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

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

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

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

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

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

33 § 2. This act shall take effect immediately.

34 PART B

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

37 12. (a) The office shall promptly seek any necessary approvals from  
38 the United States department of agriculture food and nutrition service  
39 (USDA) to automate the use of SNAP benefit cards to streamline the proc-  
40 ess for potential and current recipients to participate in locally grown  
41 fresh food subscription services, such as community supported agricul-  
42 ture partnerships, by conducting an automatic deduction on a weekly  
43 basis. The office shall also create an automation process for the New  
44 York healthy incentive program (NYHIP) as prescribed in section ninety-  
45 five-b of this title, by allowing the state to add the accrued incen-  
46 tives directly to a SNAP card. Once the office receives the waiver, the  
47 office shall work with the USDA and NYHIP to ensure that any incentives  
48 accrued are used by SNAP beneficiaries to purchase local food that is  
49 fresh and nutritious for those who may be unable to readily afford or  
50 have easy access to fresh fruits and vegetables for themselves or their  
51 families. The office shall promptly seek any necessary approvals from  
52 the USDA in order to maximize availability of the NYHIP purchasing  
53 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.

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

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

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

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

25 § 2. This act shall take effect immediately.

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

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