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SB-278 CalFresh: overissuance. (2017-2018)

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Senate Bill No. 278

CHAPTER 388

An act to amend Section 18927 of, and to add Section 18927.5 to, the Welfare and Institutions Code, relating to CalFresh.

[Approved by Governor September 30, 2017. Filed with Secretary of State September 30, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 278, Wiener. CalFresh: overissuance.

Existing law provides for the federal Supplemental Nutrition Assistance Program (SNAP), administered in California as CalFresh, under which each county distributes nutrition assistance benefits provided by the federal government to eligible households. Existing law requires each county human services agency to carry out the local administrative responsibilities of this program, subject to the supervision of the State Department of Social Services and to rules and regulations adopted by the department. Existing law requires current and future CalFresh benefits to be reduced, as specified, to recover an overissuance caused by administrative error if required by federal law, or if the overissuance exceeds \$125 or the minimum cost-effective threshold for collecting overissuances that the department is authorized to establish, whichever is greater.

This bill would require the department, by January 1, 2019, to finalize an analysis and determine whether it has adequate information to set a minimum statewide cost-effective threshold for collecting overissuances that are greater than \$125, and, if it has adequate information, to include that greater threshold in the state's claims management plan that is submitted for approval to the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS). The bill would require the department to establish a minimum statewide cost-effective threshold if the claims management plan includes that threshold and the USDA FNS approves the plan. The bill would require the department to submit a report to the Legislature detailing the results of the analysis, as specified, if the department determines that it does not have adequate information to set the minimum statewide cost-effective threshold described above.

Existing federal law requires, if the Secretary of Agriculture of the United States determines that there has been negligence or fraud on part of a state in the certification of applicant households, the state to deposit into the Treasury of the United States, a sum equal to the face value of any benefits issued as a result of the negligence or fraud. Existing federal law authorizes the secretary, if he or she determines that a state overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the state, to prohibit the state from collecting these overissuances and requires the secretary to establish a claim against the state equal to the value of the overissuance caused by the systemic error.

This bill would require a county human services agency to notify the department when a mass overissuance, as defined, has been identified, and to include in the notification information about whether the mass overissuance was caused by specified events. The bill would require the department to report mass overissuances to the USDA FNS, in accordance with federal law and guidance. By increasing the duties of local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 18927 of the Welfare and Institutions Code is amended to read:

18927. (a) Current and future CalFresh benefits shall be reduced in accordance with subdivisions (c) and (d) to recover an overissuance caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, fraud, or inadvertent household error.

(b) Current and future CalFresh benefits shall be reduced in accordance with subdivisions (c) and (d) to recover an overissuance caused by administrative error if required by federal law or if the overissuance exceeds one hundred twenty-five dollars (\$125) or the threshold established pursuant to subdivision (h), whichever is greater.

(c) A household's CalFresh benefits shall not be reduced to recover an overissuance as required or authorized by subdivision (a) or (b) unless the household receives adequate and timely notice of the overissuance, including, but not limited to, the budget worksheet that includes the amount and calculation of the overissuance and the reason for the overissuance.

(d) (1) In recovering an overissuance caused by administrative error, a recipient household's monthly CalFresh benefits shall not be reduced by more than 5 percent of the household's monthly CalFresh benefits or ten dollars (\$10), whichever is greater, unless the recipient elects for the benefits to be reduced at a higher rate.

(2) In recovering an overissuance caused by inadvertent household error, a recipient household's monthly CalFresh benefits shall not be reduced by more than 10 percent of the household's monthly CalFresh benefits or ten dollars (\$10), whichever is greater.

(3) In recovering an overissuance caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, or fraud, a recipient household's monthly CalFresh benefits shall be reduced by 20 percent of the household's monthly CalFresh benefit or twenty dollars (\$20), whichever is greater.

(e) If a household is no longer receiving CalFresh benefits, a CalFresh overissuance caused by administrative error shall not be established, and collection shall not be attempted, if the overissuance is less than one hundred twenty-five dollars (\$125) or the threshold established pursuant to subdivision (h), whichever is greater.

(f) If a household is no longer receiving CalFresh benefits, collection shall be attempted if the overissuance is caused by inadvertent household error and the overissuance is thirty-five dollars (\$35) or more. All overissuances caused by intentional program violation, as defined in subdivision (c) of Section 273.16 of Title 7 of the Code of Federal Regulations, or fraud shall be collected as required by federal law.

(g) When an overissuance collection is attempted, reasonable cost-effective methods of collection shall be implemented. The department shall define reasonable cost-effective collection methods, which shall include adequate and timely notice of the overissuance, including, but not limited to, all of the following:

- (1) The amount and calculation of, and reason for, the overissuance.
- (2) A statement of the monetary threshold described in this subdivision.
- (3) Information about how to appeal the overissuance.
- (4) Instructions for timely commencement of repayment.
- (5) Consequences of delinquent payment.

(h) (1) No later than January 1, 2019, the department shall finalize an analysis and make a determination as to whether it has adequate information to set a minimum statewide cost-effective threshold for collecting CalFresh overissuances from former CalFresh recipients that are caused by administrative error that is higher than the threshold established by subdivision (e).

(2) Notwithstanding Section 10231.5 of the Government Code, if, upon finalization of the analysis, the department determines that it does not have adequate information to set a minimum statewide cost-effective threshold for collecting CalFresh

overissuances, the department shall submit a report to the Legislature within three months of finalizing the analysis detailing the results of the analysis, as well as the data, methodology, and criteria used to reach the conclusions of the analysis. The report shall be submitted in compliance with Section 9795 of the Government Code.

(3) If, at any time, the department determines that there is adequate information to set a statewide minimum cost-effective threshold greater than the threshold set in subdivision (e), that greater threshold shall be included in the state's claims management plan submitted for approval by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

(4) The department shall establish a minimum statewide cost-effective threshold for collecting CalFresh overissuances from former CalFresh recipients that are caused by administrative error that is higher than the threshold set in subdivision (e), if a higher minimum cost-effective threshold has been included in the state's claims management plan and that plan has been approved by the USDA FNS.

(i) Nothing in this section shall prevent a county from writing off or terminating an overissuance claim when it meets the provisions of paragraph (8) of subdivision (e) of Section 273.18 of Title 7 of the Code of Federal Regulations.

(j) Nothing in this section shall prevent a county or the state from collecting all overissuances that are identified during a quality control review, as required by Section 275.12 of Title 7 of the Code of Federal Regulations.

(k) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement this section through all-county letters or similar instructions from the director no later than January 1, 2014, to allow for automation updates required by this section to be made in coordination with other scheduled updates.

SEC. 2. Section 18927.5 is added to the Welfare and Institutions Code, to read:

18927.5. (a) A county human services agency shall notify the department when a mass overissuance has been identified, and include information in the notification as to whether the mass overissuance is known to have been caused by either of the following:

(1) Negligence or fraud on the part of the county human services agency in the certification of applicant households, as defined by subdivision (h) of Section 2020 of Title 7 of the United States Code.

(2) A major systemic error by the state or county human services agency, as defined by paragraph (5) of subdivision (b) of Section 2022 of Title 7 of the United States Code.

(b) For purposes of this section, "mass overissuance" means an overissuance that is caused by the same action or inaction and impacts either 8 percent of the county CalFresh caseload, or more than 1,000 CalFresh households within the county, whichever is greater.

(c) The department shall report mass overissuances to the United States Department of Agriculture, Food and Nutrition Service, as required by federal law and guidance.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.