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## SENATE COMMITTEE ON HUMAN SERVICES

Senator Hurtado, Chair  
2021 - 2022 Regular

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**Bill No:** SB 464  
**Author:** Hurtado  
**Version:** March 17, 2021  
**Urgency:** No  
**Consultant:** Taryn Smith

**Hearing Date:** March 23, 2021  
**Fiscal:** Yes

**Subject:** California Food Assistance Program: eligibility

### SUMMARY

This bill makes noncitizens eligible for the California Food Assistance Program (CFAP) if the noncitizens satisfy all eligibility criteria for participation in CalFresh except any requirements related to immigration status.

### ABSTRACT

#### Existing Law:

- 1) Establishes under federal law the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. (*7 USC Section 2011 et seq.*)
- 2) Establishes citizenship requirements for SNAP benefits, including that undocumented immigrants are not eligible for SNAP, as specified. (*7 CFR 273.4*)
- 3) Establishes in California statute the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. (*WIC 18900 et seq.*)
- 4) Requires the California Department of Social Services (CDSS) to establish CFAP to provide assistance for persons who are not eligible for federal SNAP benefits due solely to their immigration status, as specified. (*WIC 18930 et seq.*)
- 5) Provides that noncitizens of the United States shall be eligible for the CFAP if the person's immigration status meets the SNAP eligibility criteria in effect on August 21, 1996, but is not eligible for SNAP benefits solely due to their immigration status under Public Law 104-193 and any subsequent amendments thereto. (*WIC 18930(b)(1)*)

- 6) Provides that noncitizens of the United States shall be eligible for CFAP if the person is a battered immigrant spouse or child or the parent or child of the battered immigrant, as specified, or if the person is a Cuban or Haitian entrant, as specified. (*WIC 18930(b)(2)*)
- 7) Provides that an applicant who is otherwise eligible for the CFAP but who entered the United States on or after August 22, 1996, shall be eligible for aid under this chapter only if they are sponsored and one of the following apply:
  - a) The sponsor has died;
  - b) The sponsor is disabled, as specified; or
  - c) The applicant, after entry into the United States, is a victim of abuse by the sponsor or the spouse of the sponsor if the spouse is living with the sponsor. (*WIC 18930 (b)(3)*)
- 8) Provides that an applicant who is otherwise eligible for CFAP but who entered the United States on or after August 22, 1996, and who is not sponsored or a victim of abuse, shall be eligible for CFAP beginning on October 1, 1999. (*WIC 18930(b)(4)*)
- 9) Requires applicants for CFAP to provide verification that specified conditions of eligibility are met. (*WIC 18930(b)(5)*)
- 10) Defines abuse and the documentation necessary to verify abuse as a condition of eligibility for the CFAP. (*WIC 18930(b)(6)-(7)*)
- 11) Requires, in counties approved for alternate benefit issuance systems, that the same alternate benefit issuance system shall be approved for CFAP. (*WIC 18930(c)*)
- 12) Requires, to the extent allowed by federal law, that the income, resources, and deductible expenses of those who receive CFAP benefits shall be excluded when calculating CalFresh benefits. (*WIC 18930(d)(1)*)
- 13) Provides that no household shall receive more CalFresh benefits under this section than it would if no household member was rendered ineligible pursuant to specified federal law and any subsequent amendments thereto. (*WIC 18930(d)(2)*)
- 14) Provides that CFAP became effective on September 1, 1998. (*WIC 18900(e)*)

**This Bill:**

- 1) Makes a series of legislative findings and declarations regarding food assistance programs and food insecurity among immigrant communities.
- 2) Repeals provisions of current law that create CFAP and replaces those provisions, as follows:

- a) Requires CDSS to establish a Food Assistance Program to provide assistance for those persons that satisfies all eligibility criteria for participation in the CalFresh program except any requirements related to immigration status, as specified.
  - b) Provides that, in counties approved for alternate benefit issuance systems, that same alternate benefit issuance system shall be approved for the program established by this chapter.
  - c) Requires, to the extent allowed by federal law, the income, resources, and deductible expenses of those persons who receive Food Assistance Program benefits shall be excluded when calculating CalFresh benefits.
  - d) Provides that no household shall receive more CalFresh benefits under this section than it would if no household member was rendered ineligible pursuant to specified federal law and any subsequent amendments thereto.
- 3) Becomes operative on January 1, 2023.
- 4) Makes technical non-substantive changes.

### **FISCAL IMPACT**

This bill has not yet been analyzed by a fiscal committee.

### **BACKGROUND AND DISCUSSION**

#### **Purpose of the Bill:**

According to the author, “SB 464 will allow noncitizen immigrants to be eligible for the California Food Assistance Program. Approximately 1 in 10 Californians experienced food insecurity prior to COVID-19—yet two million undocumented immigrants were not eligible for most food assistance. Post-pandemic, many families will remain in need of food assistance. SB 464 will help provide food security to low-income families, while helping to lift them out of poverty, as CalFresh has been proven to do.”

#### *Food Insecurity*

Food is a basic need and, for more and more Californians, it is becoming harder to obtain. The combined effects of the COVID-19 pandemic, wildfires, public safety power shutoffs, and other disasters have had a staggering effect on food security across the state. According to the California Association of Food Banks, about 11.7 percent of Californians were food insecure prior to the COVID-19 pandemic. This meant that 4.6 million Californians, 1.7 million of which are children, were facing food insecurity. More recent data shows a significant increase in food insecurity. According to the U.S. Census Bureau’s Household Pulse Survey, about 23 percent of California households were food insecure and 29.5 percent of households with children were food insecure in February 2021. Additionally, the Pulse Survey showed that Hispanic or Latino

communities are experiencing disproportionate rates and impacts of hunger, as 36.8 percent of Hispanic or Latino households with children experienced food insufficiency in early 2021. Food insecurity in agricultural communities is increasing. The Central California Food Bank reports a 43 percent jump in food distribution in April 2020 from the year prior. Additionally, 25 percent of people showing up in food lines had never sought emergency food help before.

People who are food insecure are disproportionately affected by chronic diseases such as heart disease, obesity, diabetes and high blood pressure. Not having enough healthy food can have serious implications for a child's physical and mental health, academic achievement and future economic prosperity. Research shows an association between food insecurity and delayed development in young children; risk of chronic illnesses like asthma and anemia; and behavioral problems like hyperactivity, anxiety and aggression in school-age children.

### *California's Undocumented Immigrant Population*

There are over 2 million undocumented immigrants living in California. Nationwide, 78 percent of undocumented immigrants are from Latin America and a slight majority (52 percent) come from Mexico. Most other undocumented immigrants are from Asia, Africa and Europe. The Pew Research Center (PRC) estimates that as of 2014, 71 percent of California's undocumented population was Mexican-born. Additionally, California's labor force includes about 1.75 million undocumented immigrants, according to the PRC. Undocumented immigrants work disproportionately in agriculture, construction, and manufacturing.<sup>1</sup>

A large portion of California's undocumented immigrants are the farmworkers who harvest fruits and vegetables all over California, yet research suggests they struggle to feed their own families. Although they were declared essential workers during the COVID-19 pandemic, farmworkers are reportedly experiencing food insecurity at higher rates than other populations. Farmworkers in California without documentation are some of the hardest hit economically, because they often do not qualify for safety net services, such as unemployment, CalFresh, and COVID-19 stimulus aid. Farmworkers often live in rural communities where resources like food pantries and soup kitchens can be inaccessible, especially when food distributions are scheduled during normal working hours. Some farmworkers avoid enrolling in any nutrition programs because of the belief that participating in public assistance may compromise their immigration or residency status. Poor translation services and misinformation on eligibility have also been identified as barriers to food assistance.

### *Food Assistance*

California's largest food assistance program is CalFresh, which is funded entirely through the federal SNAP program. Through CalFresh, qualified low-income individuals are provided special ATM-like cards to qualified low-income individuals and families. These "EBT" cards are used in grocery stores and farmers markets to purchase authorized food products.

By federal law, CalFresh benefits are not available to undocumented immigrants. However, California provides state-funded food benefits through CFAP for a limited group of qualified non-citizens who are not eligible for federal benefits due to their immigration status. Like

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<sup>1</sup> <https://www.ppic.org/publication/undocumented-immigrants-in-california/>

CalFresh, CFAP benefits are provided via EBT cards and can only be used to purchase food products authorized under CalFresh.

CFAP was created in response to passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, which restricted federal eligibility for aid to immigrant populations entering the United States. California established CFAP to provide state-funded nutritional aid to legally present immigrant populations who had lost SNAP benefits due to PRWORA. Income and other eligibility requirements, as well as benefit amounts, for CFAP align with those for CalFresh. According to CDSS, CFAP provides food assistance to approximately 35,000 individuals each month. This benefit amount averages about \$250 per household and \$100 per person.

California law identifies specific categories of lawfully present immigrants who are eligible for CFAP benefits as follows:

- Lawful permanent residents (LPRs);
- Refugees, asylees, persons granted withholding of deportation/removal, conditional entry (in effect prior to Apr. 1, 1980), or paroled into the U.S. for at least one year;
- Cuban/Haitian entrants;
- Battered spouses and children with one of the following, whether it be pending or approved: (a self petition for an immigrant visa; an immigrant visa filed for a spouse or child by a U.S. citizen or LPR; or, an application for cancellation of removal/suspension of deportation, whose need for benefits has a substantial connection to the battery or cruelty. Parent/child of such battered child/spouse are also “qualified”; and/or
- Victims of trafficking and their derivative beneficiaries who have obtained a T visa or whose application for a T visa sets forth a prima facie case.

Immigration categories have expanded in recent years, making certain immigrant populations ineligible CFAP benefits. This includes immigrants present under immigration categories that did not exist in 1997, when the CFAP program was created. For example, individuals qualifying for Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status, Deferred Enforced Departure, and/or other long-time residents who are in the process of adjusting to legal permanent residency status are not eligible for state-funded food assistance.

### *Benefits of Enrolling People into CalFresh*

The socioeconomic and health benefits of SNAP/CalFresh are well-documented. The following are some examples:

- Without CalFresh, nearly 700,000 additional Californians would be living in poverty.<sup>2</sup>

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<sup>2</sup> <https://www.ppic.org/publication/the-calfresh-food-assistance-program/>

- A 2019 USDA analysis finds that a \$1 billion increase in SNAP benefits would raise gross domestic product by \$1.54 billion and support 13,560 jobs, including 480 agricultural jobs during recessions.<sup>3</sup>
- SNAP reduces the likelihood of being food insecure by roughly 30 percent and the likelihood of being very food insecure by roughly 20 percent.<sup>4</sup>
- SNAP reduces the risk that households will fall behind on their non-food essential expenses including housing (by 7.4 percentage points), utilities (by 15.7 percentage points), and medical costs (by 8.5 percentage points).<sup>5</sup>
- An additional year of SNAP eligibility for young children with immigrant parents is associated with significant health benefits in later childhood and adolescence.<sup>6</sup>
- SNAP participants have better self-reported health, roughly 3 fewer sick days per year, and 1 or 2 fewer doctor visits per year than non-participants.<sup>7</sup>
- SNAP is associated with a 38 percent reduction in psychological distress among participating households.<sup>8</sup>
- Compared to children of immigrant mothers who were likely eligible for SNAP but not receiving it, children of immigrant mothers who were receiving SNAP were significantly more likely to be: in good or excellent health; living in a food secure household; child food secure; and their families were also less likely to have had to make health care trade-offs.<sup>9</sup>
- Low-income adults participating in SNAP incur about \$1,400, or nearly 25 percent, less in annual medical care costs than non-participants.<sup>10</sup>
- Latino youth in states that excluded recently arriving LPRs following reform are nine points less likely to graduate from high school than if that same youth lived in an otherwise similar state that extended income support to LPRs.<sup>11</sup>

These studies suggest that expanding access to SNAP-like food benefits could compound the known advantages of the program – particularly the health related benefits for mothers and children.

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<sup>3</sup> <https://ideas.repec.org/a/ags/uersaw/302728.html>

<sup>4</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4154696/>

<sup>5</sup> <http://npc.umich.edu/publications/u/2011-18-npc-working-paper-revised.pdf>

<sup>6</sup> [http://cneast.weebly.com/uploads/8/9/9/7/8997263/east\\_jmp.pdf](http://cneast.weebly.com/uploads/8/9/9/7/8997263/east_jmp.pdf)

<sup>7</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0306919214001419>

<sup>8</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4431109/pdf/AJPH.2014.302480.pdf>

<sup>9</sup> [https://childrenshealthwatch.org/wp-content/uploads/snapvaccine\\_report\\_feb12.pdf](https://childrenshealthwatch.org/wp-content/uploads/snapvaccine_report_feb12.pdf)

<sup>10</sup> [https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2653910?amp%3butm\\_source=JAMA+Intern+MedPublishAheadofPrint&utm\\_campaign=25-09-2017](https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2653910?amp%3butm_source=JAMA+Intern+MedPublishAheadofPrint&utm_campaign=25-09-2017)

<sup>11</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/psj.12140>

*Public Charge is Not Relevant*

On February 24, 2020, the United States Citizenship and Immigration Services (USCIS) implemented the Inadmissibility on Public Charge Grounds final rule nationwide. Per the final rule, a foreign national seeking admission to the United States or seeking to adjust status to that of a lawful permanent resident is inadmissible if the foreign national, "at the time of application for admission or adjustment of status, is likely at any time to become a public charge."<sup>12</sup> This caused immigrants who might be eligible for CalFresh to not seek out the benefits out of concern that accepting such assistance might jeopardize their future efforts to change their immigration status.

CFAP is a state funded nutrition assistance program, and therefore, was never considered under a public charge test. Additionally, the public charge rule is no longer in effect as a result of recent decisions to not pursue defending the rule in court actions. The Department of Homeland Security (DHS) and USCIS will now follow the 1999 field guidance on public charge. Under the 1999 field guidance, federal funded CalFresh benefits are no longer considered under a public charge test. This recent change in federal policy means that immigrants can safely access CalFresh, Medi-Cal, and other federally funded programs for which they are eligible without harming their immigration status.

The chilling effect of public charge will likely linger. Thus, effective communication of these changes and nuances of law will be key to successful implementation of SB 464, should it become law.

**Related/Prior Legislation:**

**AB 221 (Santiago, 2021)** requires CDSS to provide a disaster benefit for food assistance to low-income California residents, regardless of their immigration status, if they attest that they are eligible of specified government-funded immigration services, as specified. AB 221 also requires CDSS to commission a study to provide recommendations and solutions to a permanent food assistance program for all low-income California residents experiencing food insecurity, regardless of their immigration status, as specified. This bill is waiting to be heard in the Assembly Human Services Committee.

**AB 826 (Santiago, 2020)** would have established a program to provide \$600 in emergency food assistance to a person who self-attests to eligibility for at least one of the following benefits: Federal Emergency Food Assistance Program; Disaster Relief Assistance for Immigrants Project; or immigrant legal services. This bill was vetoed by the Governor.

**SB 1443 (Rubio, 2020)** would have made all noncitizens, regardless of immigration status, eligible for aid under the Food Assistance Program. This bill died in Senate Rules Committee.

**SB 1770 (Alejo, 2016)** would have extended eligibility for nutrition assistance under CFAP to a noncitizen who is lawfully present in the United States, provided he or she meets all remaining eligibility requirements. This bill was vetoed by the Governor.

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<sup>12</sup> 8 U.S.C. Sec. 1182(a)(4)

*AB 2345 (Gonzalez, 2014)* would have expanded eligibility for aid under the CalWORKs program to noncitizen individuals who were lawfully present in the United States. It was held in the Assembly Appropriations Committee.

*AB 35 (Hernández, Chapter 571, Statutes of 2013)* among other provisions, extended consumer protections for youth applying for DACA status and codified the requirement that DACA-approved individuals be eligible for unemployment insurance benefits.

*SB 1569 (Kuehl, Chapter 672, Statutes of 2006)* extended eligibility for certain public social services, including CalWORKs and CFAP, to qualified noncitizen victims of trafficking, domestic violence, and other serious crimes.

## COMMENTS

SB 464 is intended to expand state-funded nutrition assistance provided under CFAP to all immigrants, regardless of their status. Under current CFAP rules, only individuals who fall into limited categories of legal immigrant status (i.e., refugees and victims of domestic violence) are eligible for CFAP benefits. This bill would, beginning on January 1, 2023, make CFAP available to all immigrants who meet all other eligibility criteria for CalFresh.

This bill is considered a long-term solution to a long-standing problem wherein over 2 million people living in California are categorically excluded from the country's largest food assistance program. There is another bill under consideration that would provide nutrition assistance to undocumented immigrants as a disaster benefit. That bill, SB 221 (Santiago), will provide immediate short-term disaster relief assistance in response to the COVID-19 pandemic. SB 464 will establish a permanent food assistance program for the same population beginning in 2023.

## POSITIONS

### Support:

Nourish California (Co-sponsor)  
APLA Health  
California Association of Food Banks  
California Catholic Conference  
California Climate & Agriculture Network (CALCAN)  
California Immigrant Policy Center  
California Latinas for Reproductive Justice  
California Rural Legal Assistance Foundation, INC.  
California WIC Association  
Coalition of California Welfare Rights Organizations  
Community Clinic Association of Los Angeles County (CCALAC)  
County Health Executives Association of California (CHEAC)  
County Welfare Directors Association of California (CWDA)  
Empowering Pacific Islander Communities (EPIC)  
First 5 Association of California



Food Bank of Northern Nevada  
Health Net  
Hunger Action Los Angeles INC  
Los Angeles Regional Food Bank  
Mi Familia Vota  
National Association of Social Workers, California Chapter  
San Francisco-Marin Food Bank  
Second Harvest Food Bank of Orange County  
Southeast Asia Resource Action Center  
The Children's Partnership  
The Women's Building  
Western Center on Law & Poverty, INC.

**Oppose:**

None received.

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