

AMENDED IN SENATE APRIL 23, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1391

Introduced by Senator Liu

February 24, 2012

An act to add ~~Sections 18927 and 18927.1~~ *Section 18927* to the Welfare and Institutions Code, relating to CalFresh.

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, as amended, Liu. CalFresh benefits: overissuance.

Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Existing federal law provides for the collection of fraudulent and nonfraudulent overissuances of SNAP benefits, and authorizes the United States Secretary of Agriculture to delegate this power to the appropriate state agencies. Under existing law, a county administering CalFresh, and operating an early fraud detection and prevention program in accordance with existing law, is required to make a referral for fraud investigation when reasonable grounds for fraud exist, including when an overpayment or overissuance of benefits, or both, may result from an applicant's failure to report information pertinent to eligibility or benefits.

This bill would establish procedures, consistent with federal law, for recovering CalFresh overissuances, including requiring benefits to be reduced when an overissuance is caused by intentional program violation, inadvertent household error, or fraud, or when ~~otherwise required by federal law~~ *caused by administrative error, under certain*

circumstances. This bill would authorize the State Department of Social Services to establish a minimum cost-effective threshold for collecting CalFresh overissuances, as specified. ~~This bill would prohibit an overissuance caused by administrative error from being established with respect to a household receiving CalFresh benefits, except as specified.~~ The bill would prohibit collection of an overissuance from being attempted, in connection with ~~an individual who~~ *a household that is no longer receiving CalFresh benefits, when the overissuance is caused by administrative error and is less than \$125, or a greater threshold established by the state pursuant to a specified provision, whichever is greater. This bill would require collection of an overissuance to be attempted, in connection with a household that is no longer receiving CalFresh benefits, when the overissuance is caused by inadvertent household error and is \$35 dollars or more.*

Because counties administer the CalFresh program, by requiring that counties perform new duties, this 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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares that
- 2 CalFresh shall be administered fairly, so that all applicants and
- 3 recipients receive the assistance to which they are entitled in a
- 4 timely manner, with due consideration for the needs of the
- 5 applicants and recipients.
- 6 (b) It is the intent of the Legislature to reduce the cost of
- 7 CalFresh administration through the establishment of a
- 8 cost-effective structure to address overpayments, and to protect
- 9 the rights of all applicants and recipients. It is further the intent of
- 10 the Legislature that nothing in this act shall overturn or otherwise

1 eliminate any existing right or protection to which an applicant or
2 recipient is entitled under existing state law or regulation.

3 SEC. 2. Section 18927 is added to the Welfare and Institutions
4 Code, to read:

5 18927. (a) Current and future CalFresh benefits shall be
6 reduced ~~when in accordance with subdivisions (c) and (d) to~~
7 ~~recover a prior overissuance~~ *are overissuance* caused by
8 intentional program violation, inadvertent household error, or
9 fraud.

10 (b) Current and future benefits shall be reduced ~~because of in~~
11 ~~accordance with subdivisions (c) and (d) to recover a prior~~
12 ~~overissuance~~ *overissuance* caused by administrative error; if
13 required by federal law; or ~~when the amount of the overissuance~~
14 ~~exceeds the threshold established in Section 18927.1 if the~~
15 ~~overissuance exceeds one hundred twenty-five dollars (\$125) or~~
16 ~~the threshold established pursuant to subdivision (h), whichever~~
17 ~~is greater.~~

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

24 (d) In recovering an overissuance, a recipient household's
25 monthly benefits shall not be reduced by more than 5 percent or
26 ten dollars (\$10), whichever is ~~less~~ *greater*, unless the recipient
27 elects for the benefits to be reduced at a higher rate.

28 (e) ~~If an individual a household~~ is no longer receiving CalFresh
29 benefits, no CalFresh overissuance caused by administrative error
30 shall be established, or collection attempted, when the overissuance
31 is less than one hundred twenty-five dollars (\$125) or the threshold
32 established pursuant to subdivision ~~(a) of Section 18927.1~~ (h),
33 whichever is greater. ~~Where the~~

34 (f) *If a household is no longer receiving CalFresh benefits,*
35 *collection shall be attempted when the overissuance is caused by*
36 *inadvertent household error and the overissuance is thirty-five*
37 *dollars (\$35) or more. All overissuances caused by intentional*
38 *program violation or fraud shall be collected as required by federal*
39 *law.*

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

6 (1) The amount and calculation of, and reason for, the
 7 overissuance.

8 (2) A statement of the monetary threshold described in this
 9 subdivision.

10 (3) Information about how to appeal the overissuance.

11 (4) Instructions for timely commencement of repayment.

12 (5) Consequences of delinquent payment.

13 (h) The department may establish a minimum cost-effective
 14 threshold for collecting CalFresh issuances. If the department
 15 determines that the minimum cost-effective threshold is greater
 16 than one hundred twenty-five dollars (\$125), this threshold shall
 17 be included in the state’s CalFresh plan submitted annually for
 18 federal approval.

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

23 (j) Notwithstanding the rulemaking provisions of the
 24 Administrative Procedure Act (Chapter 3.5 (commencing with
 25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
 26 Code), the department may implement this section through an
 27 all-county letter or similar instructions from the director no later
 28 than January 1, 2013.

29 ~~SEC. 3. Section 18927.1 is added to the Welfare and~~
 30 ~~Institutions Code, to read:~~

31 ~~18927.1. (a) The department may establish a minimum~~
 32 ~~cost-effective threshold for collecting CalFresh overissuances. If~~
 33 ~~the department determines that the minimum cost-effective~~
 34 ~~threshold is greater than one hundred twenty-five dollars (\$125),~~
 35 ~~this threshold shall be included in the state’s CalFresh plan~~
 36 ~~submitted annually for federal approval.~~

37 ~~(b) Except when required by federal law, no CalFresh~~
 38 ~~overissuance caused by administrative error shall be established~~
 39 ~~or collected from a household that is receiving benefits, if the~~

1 overissuance is less than one hundred twenty-five dollars (\$125)
2 or the amount established in this section, whichever is greater.

3 (e) ~~Notwithstanding the rulemaking provisions of the~~
4 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
5 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
6 ~~Code), the department may implement this section through an~~
7 ~~all-county letter or similar instructions from the director no later~~
8 ~~than January 1, 2013.~~

9 ~~SEC. 4.~~

10 *SEC. 3.* If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.