

REPORT TO THE LEGISLATURE

**Efforts to Secure Federal Changes to Permit Full Implementation
of Chapter 407, Laws of 2019 (2SHB 1893)**

As Required by RCW 43.20A.755

November 1, 2019

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EXECUTIVE SUMMARY

Purpose of Report

Recognizing that students perform better in classes when they are well nourished, Second Substitute House Bill 1893, effective July 28, 2019, directs the Department of Social and Health Services (DSHS) to submit waivers to federal rules that limit access to Supplemental Nutrition Assistance Program (SNAP) for post-secondary students. It also requires the Department to report quarterly on its efforts to secure the federal changes to permit full implementation of this act. This requirement expires on January 1, 2020 if the Department is not able to obtain the necessary federal exemptions, waivers, or amendments before that date. The purpose of this report is to satisfy the requirements of [RCW 43.20A.755](#) and inform the legislature of the Department's efforts to secure federal changes to implement the following:

- Electronic Benefit Transfer (EBT) card use at institutions of higher education
- Expansion of state-approved employment and training programs for SNAP eligibility

Federal assistance options to confer categorical eligibility for students who receive the Washington College Grant (formerly the State Need Grant) are detailed in a separate, forthcoming report to the legislature by January 1, 2020 per [RCW 43.20A.760](#).

EBT USE AT INSTITUTIONS OF HIGHER EDUCATION

On July 17, 2019, DSHS requested that the US Department of Agriculture (USDA) Food and Nutrition Service (FNS) waive SNAP regulations at [7 CFR 278.1](#) (b) and (d), which require retailers to meet FNS certification requirements to accept EBT benefits. DSHS requested that FNS waive the retailer certification requirements for on-campus retail food establishments. On October 2, 2019, DSHS received a response from FNS denying the waiver request. However, these alternative methods to improve SNAP access for students were recommended:

Demonstration Project

In their denial letter, USDA indicated that the SNAP provisions for this waiver request are statutorily required by the Food and Nutrition Act of 2008. A statutory waiver requires a demonstration project which must include a robust evaluation component to measure the pilot's impact on SNAP households' consumption of nutritious and healthy foods.

Exploring Existing Program Statute Flexibility

There may be sufficient flexibilities under program statute and regulations that can help serve SNAP households in need, including eligible students. In December 2016, USDA put new regulations in place to ensure retailers that accept SNAP carry both a wider array of healthful food options and more choices within each option. These regulatory changes were based, in part, on mandatory changes directed under the Agricultural Act of 2014 (the 2014 Farm Bill).

While retailers generally must meet certain staple food requirements to be eligible to participate, those requirements are not unduly burdensome. Currently retailers need to only carry 36 staple food-stocking units¹ on a continuous basis, or have more than 50 percent of their total gross retail sales from the sale of staple foods to participate in SNAP.

Restaurant Meals Program

The state also has the option under [7 CFR 278.1 \(d\)\(3\)](#) to implement a Restaurant Meals Program (RMP). The RMP option allows states to contract with restaurants to permit use of a SNAP benefit for elderly, disabled and homeless individuals (and their spouses) to purchase meals through an EBT card. This may provide greater access to food for students who meet this specific criteria.

Historically, Washington has chosen not to participate in RMP as the program is significantly difficult to operationalize. In order for the state to contract with a restaurant for the purpose of RMP, the restaurant must apply to and be approved by FNS. If approved by FNS, the restaurant must obtain a point-of-sale machine for EBT and agree to provide “low-cost” meals for participants. State automation systems would need coding enhancements, in coordination with our EBT vendor, for homeless, disabled and elderly participants’ EBT cards to reflect eligibility for restaurant meals. This option also creates additional contracts to be monitored which contributes to administrative burden, depending on the number of restaurants that choose to participate.

EMPLOYMENT AND TRAINING PROGRAM EXPANSION

Second Substitute House Bill 1893 directs DSHS, in conjunction with the State Board for Community and Technical Colleges (SBCTC), to identify educational programs at the community and technical colleges that would meet the requirements of state-approved employment and training programs. The following are current state-approved employment and training programs that meet student eligibility requirements for Basic Food:

[Basic Food Employment and Training - BFET](#)

[ORIA \(Office of Refugee and Immigrant Assistance\) BFET](#)

[Limited English Proficiency \(LEP\) Pathway](#)

[Career Ladder for Educated and Vocationally Experienced Refugees \(CLEVER\)](#)

[Programs included in the Workforce Innovation and Opportunity Act - WIOA](#)

[AmeriCorps Programs](#)

[Division of Vocational Rehabilitation](#)

DSHS is currently working with SBCTC to identify additional training programs that meet federal regulations. [7 CFR 273.5\(11\)\(ii\)\(A\)](#) gives states the authority to approve an employment and training program if it meets the following conditions:

¹ [USDA – FNS – Is My Store Eligible?](#)

(A) Is part of a program of career and technical education as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302) designed to be completed in not more than 4 years at an institution of higher education as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 2296); or

(B) is limited to remedial courses, basic adult education, literacy, or English as a second language.

(iii) A program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

(iv) An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in §273.7(e)(1).

CONCLUSION

DSHS is developing a proposal that will determine if the suggested demonstration project is feasible and would meet the USDA requirements to show that use of SNAP benefits on college campuses can positively impact food insecurity and education completion rates.

The Department will continue to work with SBCTC to expand the existing list of approved programs and identify additional educational opportunities under the state operated employment and training program, known as the Basic Food Employment and Training (BFET) program. This includes a review of non-Perkins programs (traditionally referred to as Academic Transfer), apprenticeship and contracted (non-degree) vocational training.