

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 138 (McGuire) – As Amended June 29, 2017

SENATE VOTE: 40-0

SUBJECT: School meal programs: free and reduced-price meals: universal meal service

SUMMARY: Requires the California Department of Education (CDE), in consultation with the State Department of Health Care Services (DHCS), to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program; requires school districts and county offices of education with high poverty schools to provide breakfast and lunch free of charge to all students at those schools; and, authorizes a school district or county office of education to opt-out due to fiscal hardship. Specifically, **this bill:**

- 1) Requires a local educational agency that participates in a federal school meal program to use Medi-Cal participation data, commencing with the participation data of pupils in the 2017–18 school year, to directly certify pupils eligible for free and reduced-price school meals, to the extent permitted under federal law.
- 2) Specifies the Medi-Cal participation data is exempt from the disclosure requirements of the California Public Records Act; specifies the Medi-Cal participation data shall be used only for the purposes of direct certification, shall not be open to the public for inspection, and shall not be disclosed to any other party without the written consent of the parent or legal guardian of the pupil, except for the purpose of directly certifying pupils for free and reduced-price meals or as otherwise required or authorized by law or state or federal court order; and, specifies this measure does not prohibit the disclosure of aggregate data that does not reveal personally identifying information about a pupil or his or her family.
- 3) Defines a “very high poverty school” as a school that enrolls pupils in kindergarten or in any of grades 1 to 12, inclusive, and is eligible to receive the free federal reimbursement rate for all reimbursable school breakfasts and lunches served, pursuant to the Community Eligibility Provision.
- 4) Requires, in order to provide pupils in very high poverty schools with optimal nutrition for learning and to ensure that schools receive the maximum federal meal reimbursement, a school district or a county superintendent of schools to provide breakfast and lunch free of charge to all pupils at a very high poverty school.
- 5) Requires, on or before September 1, 2018, a school district or county superintendent of schools that has a very high-poverty school in its jurisdiction to apply to operate a federal universal meal service provision, which may include, but is not limited to, the Community Eligibility Provision or Provision 2.
- 6) Requires a school district or county superintendent of schools to begin providing a universal meal to all pupils at a very high poverty school upon state approval to operate a universal

meal service and authorizes a school district or county superintendent of schools to stop providing the universal meal service at a school if the school ceases to be a very high poverty school.

- 7) Authorizes the governing board of a school district or county office of education to adopt a resolution stating that it is unable to comply with, and demonstrating the reasons why it is unable to comply with, the requirements of this measure due to fiscal hardship, specifies the resolution shall be publicly noticed on at least two consecutive meeting agendas, on the first meeting agenda as an information item and on the second meeting agenda as an action item; and requires the governing board of the school district or county office of education to reconsider the resolution at least once every four years.
- 8) Authorizes a school district or county superintendent of schools to determine a pupil's eligibility for free and reduced-price school meals based on data including the direct certification match and alternative measures of poverty.
- 9) Makes Legislative findings and declarations that school meals are essential resources that prevent child hunger and support health and achievement and in California; and that almost all low-income children covered by public health insurance receive Medicaid which makes direct certification for school meals with Medicaid the most effective tool for identifying low-income pupils and increasing paperless certification for free and reduced-price school meals; and, specifies it is the intent of the Legislature to improve school districts' accuracy in identifying low-income pupils and to increase pupil access to school meals at the highest poverty schools.

EXISTING FEDERAL LAW:

- 1) Establishes the Healthy Hunger-Free Kids Act of 2010 which provides performance awards to States that best ensure that children who are members of households receiving benefits under the Supplemental Nutrition Assistance Program (SNAP) are directly certified for free school meals.
- 2) Authorizes local educational agencies to directly certify for free or reduced-price meals those children who are members of a household receiving assistance under CalFresh or Temporary Assistance to Needy Families, known as California Work Opportunity and Responsibility to Kids (CalWorks) in California, or who are enrolled in Medicaid, known as Medi-Cal in California.
- 3) Authorizes a universal meal service option known as the Community Eligibility Provision (CEP), which allows a local educational agency that directly certifies for free meals at least 40% of the students in either the district overall, a group of schools within the district, or an individual school, to receive meal reimbursement based on a formula that equate to 1.6 times the free reimbursement rate for students directly certified for free or reduced-price meals, plus the standard reimbursement rate for paid meals.
- 4) Authorizes an additional universal meal service option know as Provision 2 that allows a local educational agency to certify children for free and reduced-price meals for up to 4 consecutive school years in the schools that serve meals at no charge to all enrolled children.

EXISTING STATE LAW:

- 1) Requires CDE, in consultation with DHCS, to develop and implement a process to use participation data from the Medi-Cal program to verify income and, to the extent permitted under federal law, directly certify children whose families meet the applicable income criteria into the school meal program. (Education Code 49562)
- 2) Requires each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day. (Education Code 49550)
- 3) Requires CDE to limit the information needed from DHCS to identify families whose income falls below the eligibility cutoff for free or reduced-price meals and the least amount of information needed to facilitate a match of local school records.
- 4) Requires CDE and DHCS to design this process to maintain pupil privacy and the privacy of Medi-Cal recipients by establishing privacy and confidentiality procedures consistent with all applicable state and federal laws.

FISCAL EFFECT: According to the Senate Appropriations Committee, the bill's requirement for the CDE to share Medi-Cal participation data with school districts should be minor or absorbable, as this information can be accessed and electronically generated through the existing California Longitudinal Pupil Achievement Data System. There could be potential cost savings due to the reduced verification of paper lunch applications.

COMMENTS: This bill requires CDE and the Department of Health Care Services to use Medi-Cal data to match students for eligibility for free and reduced priced meals. This bill also requires school districts and county offices of education with high poverty schools (those that qualify for the federal Community Eligibility Provision), to provide breakfast and lunch free of charge to all students at those schools, but allows for an opt-out due to fiscal hardship.

According to the author, "First, California faces significant challenges in enrolling eligible low-income students in school meal programs. The students who are most in need of school meals are often the ones most likely to fall through the paper-application cracks of the process. For example, it may be harder for small school districts to identify low-income students with limited staffing, or for districts with more immigrants to achieve full enrollment through paper applications or direct certification from CalFresh & CalWORKS alone. When direct certification is effective and accurately reflecting poverty in our schools, districts will be better positioned to draw down maximum levels federal funds and serve meals free of charge to all students. States like Kentucky, Tennessee and West Virginia surpass California in participation in these federally-funded opportunities. California has done a great job of achieving high enrollment levels through the Affordable Care Act (ACA). 60% of California's kids are on Medi-Cal compared to only 24% on CalFresh, highlighting the importance of sharing Medi-Cal's valuable eligibility data. We want to make sure to use Medi-Cal data while the ACA is still fully intact and increase universal school meal participation as much as possible."

"Next, when direct certification is effective and accurately reflecting poverty in our schools, districts will be better positioned to draw down maximum levels of federal funds and serve meals free of charge to all students. In the great state of California, where we pride ourselves on

progressive action to support our most vulnerable populations, we are falling short on serving free meals at children high-poverty schools- and leaving tens of millions of federal dollars on the table. Nationally, nearly 50% of eligible school districts take-up the Community Eligibility Provision (CEP) – a powerful federal option that maximizes federal funding and enables schools to serve two free meals each school day to all students. Whereas traditionally conservative states like Kentucky, West Virginia, North Dakota, Alaska, and Louisiana see 75% or more of their districts drawing down federal funds and serving universally free meals through CEP, a measly 15% of California’s CEP-eligible districts have adopted the universally free model."

"Some states have already mandated universally free meals for students in very high poverty schools. Texas, Colorado, and New Mexico mandate universally free meals in very high poverty schools. Washington DC and West Virginia require universally free meals in ALL schools. California has the highest child poverty rate in the nation, with more children in poverty than any other state. There is a great need for state action here in California."

Expands Medi-Cal Direct Certification Pilot Program. Last year, California successfully implemented a 14-district pilot program to directly certify through Medi-Cal. According to the California Food Policy Advocates, as of April 2016, about one school-year into the 14-district pilot, 39,285 students who were previously slipping through the cracks were directly certified through Medi-Cal matching in the 14 districts. If Medicaid Direct Certification were picked up statewide, CDE estimates that more than 650,000 additional students would be directly certified for free lunches. These are students that are not captured in direct certification matches with CalFresh & CalWORKS. San Diego Unified School District has seen the following results:

- One year after the start of the Medi-Cal pilot, from April 2015 to April 2016, the Direct Certification percentage increased 13%, a total increase of 53%.
- As a result of increased direct certification, the need to verify individual household applications dropped by 30%.

Universal School Meals. This bill requires school districts and county offices of education with very high poverty schools, to provide breakfast and lunch free of charge to all students at those schools. A very high poverty school is defined to be a school whose identified student percentage, pursuant to the Community Eligibility Provision, is sufficient to result in federal reimbursement at the modified free reimbursement rate (1.6 times the free reimbursement rate) that is sufficient to reimburse all meals served to all students, regardless of a student’s free or reduced-price status, at the free reimbursement rate. The bill authorizes school district and county office governing boards to opt-out of providing universal meal service at high poverty schools if they adopt a resolution at a public board meeting demonstrating the reasons why it is unable to comply with the requirements due to a fiscal hardship.

Eligibility for Universal School Meals. According to the California Food Policy Advocates, "the different universal meal provisions have the same impact upon students, by making meals available to all at no charge, but the way they are administered is different.

Provision 2 is a long-standing option available to any school for providing breakfast, lunch, or both at no charge. Reimbursement is based on the percentage of meals served in each category (free, reduced-price, and full-price) at the time the school begins a four-year cycle. In the first year (the base year), a school determines how many of its students are eligible for free, reduced-price, and full-price meals. A school can use direct certification or household applications to

determine students' eligibility. From this count of students, the school calculates what percentage of the student population is eligible for free, reduced-price, and full-price meals. The percentages apply for the remainder of the four-year cycle.

Community Eligibility (CEP) CEP enables high-poverty schools to serve breakfast and lunch to all students at no charge without collecting school meal applications. CEP is designed to benefit high-poverty schools. It relies upon enrollment through direct certification, which identifies students participating in means-tested programs like CalFresh and CalWORKS. CEP operates on a four year cycles, similar to Provision 2.

CEP uses a formula to determine the federal reimbursement for meals served to students: % of Identified Students x 1.6 = % of Meals Reimbursed at the "Free" (Highest) Rate
All other meals are reimbursed at the "paid" (lowest) rate of reimbursement.

For example, if 60% of students meet the "identified" criteria, 96% of meals will be reimbursed at the "free" (highest) rate of per-meal federal reimbursement ($60\% \times 1.6 = 96\%$), with the remaining 4% of meals reimbursed at the lower "paid" rate."

Related Legislation: AB 1502 (Thurmond) from 2017, which is pending in the Senate Education Committee, would require the California Department of Education (CDE) to conduct the data match of local school records to determine program eligibility for the National School Lunch Program and the School Breakfast Program, as required by federal law.

Committee Amendment: To ensure that all California public school students are provided adequate nutrition, the bill should be amended to require very high poverty charter schools that are currently participating in the National School Lunch Program or the Federal School Breakfast Program to comply with this measure.

REGISTERED SUPPORT / OPPOSITION:

Support

A Better Course
Alameda County Community Food Bank
American Academy of Pediatrics, California
American Heart Association
American Stroke Association
California Action for Healthy Kids
California Alternative Payment Program Association
California Association for Health, Physical Education, Recreation and Dance
California Association of Food Banks
California Catholic Conference, Inc.
California Children's Hospital Association
California Food Policy Advocates
California School Employees Association
California School Nurses Organization
California School-Based Health Alliance
California State PTA
California Teachers Association

California WIC Association
Center for Ecoliteracy
Children's Defense Fund-California
Food Bank of Contra Costa & Solano County
Food for People, Inc.
Health Officers Association of California
Hunger Action Los Angeles
Jewish Family Service of San Diego
Long Beach Alliance for Food and Fitness
National Association of Social Workers, California Chapter
Orange County Food Access Coalition
Service Employees International Union
San Francisco Food Security Task Force
SF-Marin Food Bank
United Ways of California
Western Center on Law & Poverty
Many Individuals

Opposition

None on file.

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