

2015 DRAFTING REQUEST

Bill

Received: **10/23/2014** Received By: **pkahler**
Wanted: **As time permits** Same as LRB:
For: **André Jacque (608) 266-9870** By/Representing: **Jamie Julian**
May Contact: Drafter: **pkahler**
Subject: **Public Assistance - fdshre(SNAP)** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Jacque@legis.wisconsin.gov**
Carbon copy (CC) to: **Tamara.Dodge@legis.wisconsin.gov**
Sarah.WalkenhorstBarber@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Move benefits offline if account not used for six months

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/24/2014	jdyer 11/6/2014		_____			
/P1	pkahler 2/12/2015		jmurphy 11/6/2014	_____	mbarman 11/6/2014		State
/P2	pkahler 3/30/2015	jdyer 2/13/2015	rschluet 2/13/2015	_____	srose 2/13/2015		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		jdye 3/31/2015		_____	mbarman 3/31/2015	sbasford 4/14/2015	State

FE Sent For:

*at intro
4/23/15*

<END>

Kahler, Pam

From: Julian, Jamie
Sent: Thursday, October 23, 2014 1:31 PM
To: Kahler, Pam
Subject: Drafting Request_FoodShare

Hi Pam:

Here is the link to the federal regulation:

Hi Jamie,

It looks like the relevant provision in the federal regulations is 7 CFR s. 274.02^{274.02} (h). It appears to authorize states to move benefits "offline" after an account has remained inactive for three months, and then to expunge benefits that have not been used within a one-year period.

Here is the link to the relevant part of the Code of Federal Regulations, so you can look at the exact language: <http://www.gpo.gov/fdsys/pkg/CFR-2014-title7-vol4/pdf/CFR-2014-title7-vol4-subtitleB-chapII.pdf>. The relevant provision is on page 912.

Because the federal regulations appear to speak to this issue fairly precisely, any departure from those time periods (three months and one year) could trigger the need for a waiver.

I hope that's helpful. Let me know if you have any questions or need anything more.

Anna

Anna Henning
Staff Attorney
Wisconsin Legislative Council
(608) 266-0292
anna.henning@legis.wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0487/A

PJK:A:...

PI

due FRIDAY
please

jk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
(w/ 10-24)

Gen

- 1 AN ACT ...; relating to: removing FoodShare benefits from an inactive account
- 2 and expunging unused benefits after one year.

Analysis by the Legislative Reference Bureau

The federal Supplemental Nutrition Assistance Program (SNAP), known as FoodShare in Wisconsin and formerly known as the Food Stamp Program, provides benefits to eligible low-income households for the purchase of food. FoodShare is administered by the Department of Health Services (DHS). The state and the federal government share the cost of administration. Benefits, which are electronically debited to a Quest card, are paid entirely with federal funds. Any benefit amount that is not used in the month of receipt is carried over and may be used by the recipient for up to one year.

This bill requires DHS to remove and store offline all FoodShare benefits posted to a recipient's benefit account if the account has not been accessed in three months or longer. The benefits must be made available again to the recipient if the recipient requests them or reapplies for FoodShare benefits, whichever is appropriate under the circumstances. DHS must attempt to notify the recipient before removing the benefits and must describe how the benefits may be returned to the account. The bill also directs DHS to expunge any FoodShare benefits that have not been used after one year, regardless of whether the benefits are being stored offline or are posted to active accounts.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 49.79 (11)^X of the statutes is created to read:

2 49.79 (11) TREATMENT OF INACTIVE ACCOUNTS; EXPUNGEMENT OF UNUSED BENEFITS.

3 (a) If, for a period of 3[✓] months or longer, an individual or household that is receiving
4 benefits under this section[✓] through an electronic benefit transfer system uses no
5 benefits that have been posted to the individual's or household's benefit account, the
6 department shall remove all benefits from the account electronically and store them
7 offline.[✓] The benefits being stored offline shall be made available to the individual or
8 household again upon request by the individual or a member of the household or
9 upon reapplication by the individual or household for benefits under this section,[✓]
10 whichever is appropriate under the circumstances. The department shall attempt
11 to notify the individual or household before benefits are removed from the account
12 under this paragraph[✓] and shall describe the steps that the individual or household
13 must take to get the benefits returned to the account.

 ****NOTE: The federal regulations are not perfectly clear about whether the
 benefits that may be stored offline are all benefits in the account or just the ones that have
 been posted in the months during which the account was not accessed (there may be
 benefits in the account that have carried over from one or more months before the last
 three months during which the account was not used). I drafted the provision above so
 that all benefits in the inactive account were stored offline. Let me know if that is not
 what you want.[✓]

14 (b) The department shall expunge any benefits that have not been used after
15 a period of one year, regardless of whether either of the following applies:[✓]

16 1. The benefits have been removed from an inactive benefit account under par.

17 (a)[✓] and are being stored offline.

18 2. The benefits are still posted to an active account.[✓]

****NOTE: The federal regulations also are not perfectly clear about whether the expungement after one year under 7 CFR 274.2 (h) (2) relates only to benefits that are being stored offline. It is my understanding, however, that benefits not used for one year even in an active account are expunged, too. Therefore, I drafted par. (b) above to cover both situations. Let me know if you want par. (b) above limited to benefits that are being stored offline. ✓

1

(END)

d-note
↓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

PI
LRB-04877~~7~~dn
PJK:.....

date

jkd

Please see my comments in the embedded NOTES in the draft. ✓ You may want to consult with DHS to determine the answers. They would have a better idea of how the federal regulations are interpreted.

I did not include in the draft the language of 7 CFR 274.02 (h) that appeared to relate to administering and accounting for stored and expunged benefits between the state and the federal government. Let me know if you want any of that language included.

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0487/P1dn
PJK:jld:jm

November 6, 2014

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I did not include in the draft the language of 7 CFR 274.02 (h) that appeared to relate to administering and accounting for stored and expunged benefits between the state and the federal government. Let me know if you want any of that language included.

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Julian, Jamie
Sent: Tuesday, December 16, 2014 2:38 PM
To: Kahler, Pam
Subject: LRB 0487: Drafting Request_FoodShare

Hi Pam:

It has come to my attention that benefits may be taken off line but after 6 months of inactivity (not 3 months per our draft) – this is in accordance with the Food and Nutrition Act of 2008 and I understand is current law. So if you could add the applicable provisions of the following from chapter 7 (H)(12) that would be good.

(12) RECOVERING ELECTRONIC BENEFITS.—

(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity.

(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.

(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months.

(D) NOTICE.—A State agency shall—

- (i) send notice to a household the benefits of which are stored under subparagraph (B); and
- (ii) not later than 48 hours after request by the household, make the stored benefits available to the household.

→ USC 2016 (h)(12)

de USC
7 USC 2011-2036
de 7 CFR 273.24

I am still verifying the answers to your other questions in the preliminary draft and notes.

Thank you,

Jamie

From: Kahler, Pam
Sent: Tuesday, October 28, 2014 11:56 AM
To: Julian, Jamie
Subject: RE: Drafting Request_FoodShare

I'm pretty sure one of the questions I had *did* relate to the issue you raise here. The questions are in a D-note or embedded in the draft so that you can better see what provisions they relate to. The draft is a preliminary. The draft went to editing on Oct. 24 and they are shooting for no draft being in editing more than two weeks at the longest. Sound okay?

From: Julian, Jamie
Sent: Tuesday, October 28, 2014 11:52 AM
To: Kahler, Pam
Subject: RE: Drafting Request_FoodShare

Let me what your questions are when you are ready.

Thanks!

From: Kahler, Pam
Sent: Tuesday, October 28, 2014 11:49 AM
To: Julian, Jamie
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Hi, Jamie:

The draft is in editing, and I had questions regarding a couple of things. I thought it might be best if you consulted with DHS on those things to see how they interpret the regs. Would it be okay to wait until the first version comes out of editing and then make some specific changes at that point based on the draft?

Pam

From: Julian, Jamie
Sent: Tuesday, October 28, 2014 11:10 AM
To: Kahler, Pam
Subject: FW: Drafting Request_FoodShare

Hi Pam:

I am reading pg. 912 again it is appears that it could be interpreted a couple of ways:

(2) The State agency shall expunge benefits that have not been accessed by the household after a period of one year. Issuance reports shall reflect the adjustment to the State agency issuance totals to comply with monthly issuance reporting requirements prescribed under § 274.4.

It looks like the U.S. Dept. of Ag is referring to the entire previous year's benefits – not a first in first out method.

http://www.usda.gov/wps/portal/usda/usdahome?navid=ASK_EXPERT2

http://asktheexpert.custhelp.com/app/answers/detail/a_id/5394/kw/stale%20accounts/session/L3Nuby8xL3RpbWUvMTQxNDUxMTc3Ni9zaWQvQTJRc1pfNW0%3D

http://asktheexpert.custhelp.com/app/answers/detail/a_id/5334/kw/stale%20accounts/session/L3Nuby8xL3RpbWUvMTQxNDUxMTc3Ni9zaWQvQTJRc1pfNW0%3D

I am wondering if you found this out as well?

It does not seem that WI takes inactive accounts offline after three months per the federal regs so the bill draft should reflect compliance with this as well.

Thank you,

Jamie

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I hope that's helpful. Let me know if you have any questions or need anything more.

Anna

Anna Henning
Staff Attorney
Wisconsin Legislative Council
(608) 266-0292
anna.henning@legis.wisconsin.gov

Kahler, Pam

From: Rep. Jacqué
Sent: Wednesday, February 11, 2015 4:44 PM
To: Kahler, Pam
Subject: FW: LRB 0487: Drafting Request_FoodShare

Hi Pam,

Jason Miller from Rep. Jacqué's office and I am wondering if you could send us the draft slash 2 with the changes made. I am really hoping that this email chain will help you. I was not here for this so I am kind of blind on this. If you have any questions please contact the office and the number below or email is great too.

Have a great night,

Jason Miller
Office of Representative André Jacqué
2nd Assembly District
608.266.9870
Office 212 North
Jason.Miller@legis.wisconsin.gov

From: Julian, Jamie
Sent: Thursday, December 18, 2014 10:04 AM
To: Kahler, Pam
Subject: RE: LRB 0487: Drafting Request_FoodShare

Might as well hold off for now while I verify a couple of other things. Thank you

From: Kahler, Pam
Sent: Wednesday, December 17, 2014 9:53 AM
To: Julian, Jamie
Subject: RE: LRB 0487: Drafting Request_FoodShare

Jamie:

I've made the change. Do you want to see the draft with this change, or should I hold off until you've had a chance to address the other questions?

Pam

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http://asktheexpert.custhelp.com/app/answers/detail/a_id/5334/kw/stale%20accounts/session/L3Nuby8xL3RpbWUvMTQxNDUxMTc3Ni9zaWQvQTJRc1pfNW0%3D

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Anna

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P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Draft
2-12
out by 2-17

4

Regen

1 AN ACT to create 49.79 (11) of the statutes; relating to: removing FoodShare
2 benefits from an inactive account and expunging unused benefits after one
3 year.

Analysis by the Legislative Reference Bureau

The federal Supplemental Nutrition Assistance Program (SNAP), known as FoodShare in Wisconsin and formerly known as the Food Stamp Program, provides benefits to eligible low-income households for the purchase of food. FoodShare is administered by the Department of Health Services (DHS). The state and the federal government share the cost of administration. Benefits, which are electronically debited to a Quest card, are paid entirely with federal funds. Any benefit amount that is not used in the month of receipt is carried over and may be used by the recipient for up to one year.

This bill requires DHS to remove and store offline all FoodShare benefits posted to a recipient's benefit account if the account has not been accessed in three months or longer. The benefits must be made available again to the recipient if the recipient requests them or reapplies for FoodShare benefits, whichever is appropriate under the circumstances. DHS must attempt to notify the recipient before removing the benefits and must describe how the benefits may be returned to the account. The bill also directs DHS to expunge any FoodShare benefits that have not been used after one year, regardless of whether the benefits are being stored offline or are posted to active accounts.

Art

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 49.79 (11) of the statutes is created to read:

2 49.79 (11) TREATMENT OF INACTIVE ACCOUNTS; EXPUNGEMENT OF UNUSED BENEFITS.

3 (a) If, for a period of ⁶ months or longer, an individual or household that is receiving
 4 benefits under this section through an electronic benefit transfer system uses no
 5 benefits that have been posted to the individual's or household's benefit account, the
 6 department shall remove all benefits from the account electronically and store them
 7 offline. The benefits being stored offline shall be made available to the individual or
 8 household again ^{within 48 hours after a} upon request by the individual or a member of the household or
 9 upon reapplication by the individual or household for benefits under this section,
 10 whichever is appropriate under the circumstances. The department shall attempt
 11 to notify the individual or household before benefits are removed from the account
 12 under this paragraph and shall describe the steps that the individual or household
 13 must take to get the benefits returned to the account.

****NOTE: The federal regulations are not perfectly clear about whether the benefits that may be stored offline are all benefits in the account or just the ones that have been posted in the months during which the account was not accessed (there may be benefits in the account that have carried over from one or more months before the last three months during which the account was not used). I drafted the provision above so that all benefits in the inactive account were stored offline. Let me know if that is not what you want.

14 (b) The department shall expunge any benefits that have not been used after
 15 a period of one year, regardless of whether either of the following applies:

16 1. The benefits have been removed from an inactive benefit account under par.

17 (a) and are being stored offline.

18 2. The benefits are still posted to an active account.

7
To restore the benefits

****NOTE: The federal regulations also are not perfectly clear about whether the expungement after one year under 7 CFR 274.02 (h) (2) relates only to benefits that are being stored offline. It is my understanding, however, that benefits not used for one year even in an active account are expunged, too. Therefore, I drafted par. (b) above to cover both situations. Let me know if you want par. (b) above limited to benefits that are being stored offline.

1

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0487/P2dn

PJK:.....

date

jkd

This version of the draft changes from three months to six months[✓] the amount of time that an account has not been used for DHS to store the benefits offline.[✓] I have also specified that DHS must make the benefits available again within 48 hours[✓] after a request to have the benefits restored, which is the amount of time required under the federal regulations. The previous draft did not specify any time limit for restoring the benefits.

Pamela J. Kahler
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(608) 266-2682
pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0487/P2dn
PJK:jld:rs

February 13, 2015

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Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Rep.Jacque
Sent: Monday, March 30, 2015 2:24 PM
To: Kahler, Pam
Subject: FW: Draft review: LRB -0487/P2 Topic: Move benefits offline if account not used for three months
Attachments: 15-0487/P2.pdf

Hi Pam-

Could you please convert this to a /1 for me? Thanks!

André

From: LRB.Legal
Sent: Friday, February 13, 2015 9:06 AM
To: Rep.Jacque
Subject: Draft review: LRB -0487/P2 Topic: Move benefits offline if account not used for three months

Following is the PDF version of draft LRB -0487/P2 and drafter's note.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0487/P2
PJK:jld:ms

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2015 Bill

(in 3-30)
no changes
out by 4-1

Regen

1 AN ACT to create 49.79 (11) of the statutes; relating to: removing FoodShare
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Analysis by the Legislative Reference Bureau

The federal Supplemental Nutrition Assistance Program (SNAP), known as FoodShare in Wisconsin and formerly known as the Food Stamp Program, provides benefits to eligible low-income households for the purchase of food. FoodShare is administered by the Department of Health Services (DHS). The state and the federal government share the cost of administration. Benefits, which are electronically debited to a Quest card, are paid entirely with federal funds. Any benefit amount that is not used in the month of receipt is carried over and may be used by the recipient for up to one year.

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3 (a) If, for a period of 6 months or longer, an individual or household that is receiving
4 benefits under this section through an electronic benefit transfer system uses no
5 benefits that have been posted to the individual's or household's benefit account, the
6 department shall remove all benefits from the account electronically and store them
7 offline. The benefits being stored offline shall be made available to the individual or
8 household again within 48 hours after a request by the individual or a member of the
9 household to restore the benefits or upon reapplication by the individual or
10 household for benefits under this section, whichever is appropriate under the
11 circumstances. The department shall attempt to notify the individual or household
12 before benefits are removed from the account under this paragraph and shall
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2

(END)

Basford, Sarah

From: Jacque, Andre
Sent: Tuesday, April 14, 2015 11:23 AM
To: LRB.Legal
Subject: Draft Review: LRB -0487/1 Topic: Move benefits offline if account not used for six months

Please Jacket LRB -0487/1 for the ASSEMBLY.