



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #356

### **Eliminate FoodShare Benefits for Qualified Legal Immigrants (Health Services -- Medical Assistance -- Administration and FoodShare)**

[LFB 2011-13 Budget Summary: Page 235, #5]

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#### **CURRENT LAW**

Wisconsin FoodShare, the state's name for the federal supplemental nutrition assistance program (SNAP), provides benefits to eligible individuals that may be used to purchase food through participating grocery stores and other retailers. The benefits provided through this program are intended to supplement the recipient's food purchasing power. Although the benefits are federally funded, the state administers the program, and counties and tribes perform certain enrollment and caseload management functions. Generally, individuals with household income at or below 200% of the federal poverty level (FPL) qualify for the program. In 2011, 200% of the FPL is an annual amount of \$37,060 for a family of three.

In 1996, the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) implemented a number of changes in federal public assistance programs, including the food stamp program (the former name of SNAP). One of these changes imposed eligibility requirements for certain legal immigrants, who are referred to as "qualified aliens" in federal law. As a result of this change and subsequent legislation, qualified aliens who do not meet certain criteria are ineligible for certain federal programs, including SNAP.

In 1998, Wisconsin implemented the state option FoodShare program (SOFSP) that provides GPR-funded benefits to legal immigrants who do not qualify for federal food stamp benefits due to provisions of PRWORA. Undocumented immigrants are not eligible to receive federal SNAP or state-option FoodShare benefits.

#### **GOVERNOR**

Prohibit DHS from providing FoodShare benefits to "qualified aliens," except to the extent

that federal SNAP benefits are required by the federal government. Eliminate the SOFSP, and reduce funding by \$380,000 GPR annually to reflect the elimination of this program.

## **DISCUSSION POINTS**

1. Undocumented immigrants are not eligible for federal SNAP or state-funded SOFSP benefits. The provisions of the bill would only affect legal immigrants who receive a state option FoodShare benefit, and who are not yet eligible for federal SNAP benefits due to federal law.

2. Before the enactment of PRWORA, most legal immigrants who met program financial requirements qualified for federal food stamp benefits. In 1996, PRWORA restricted legal immigrant eligibility for several federal programs, including the food stamp program. The legislation made "qualified aliens" ineligible for the food stamp program, unless they met certain criteria.

3. The federal legislation did not prohibit states from providing benefits to individuals who were made ineligible for federal food stamp benefits. 1997 Wisconsin Act 236 established the Wisconsin state option food stamp program (SOFSP) that provides state-funded food stamp benefits to legal immigrants who lost federal eligibility under PRWORA.

4. PRWORA defined "qualified aliens" as individuals lawfully admitted for permanent residence, certain refugees or individuals granted asylum, certain individuals paroled for at least one year or granted conditional entry, or individuals whose deportation is being withheld. Qualified aliens were originally not eligible to receive federal food stamp benefits unless they fell in one of the following categories: (a) certain refugees, aliens granted asylum, and immigrants whose deportation is withheld; (b) permanent residents who had worked for a total of 40 qualifying quarters; or (c) legal immigrant members of the armed services on active duty, veterans with honorable discharges unrelated to immigrant status, and their spouses.

5. Subsequent federal legislation restored eligibility for federal food stamp benefits for the following individuals: (a) disabled qualified aliens; (b) qualified aliens who are under the age of 18; and (c) any qualified alien who has lived in the United States for more than five years. These individuals qualify for federal SNAP benefits, if they meet financial criteria. Due to these restorations of eligibility, the population that receives SOFSP benefits is non-disabled legal immigrants over 18 years of age who have resided in the United States for five years or less, and meet all other SNAP criteria.

6. The bill would prohibit DHS from providing FoodShare benefits to "qualified aliens," except to the extent that federal SNAP benefits are required by the federal government. This provision would eliminate the SOFSP and reduce funding by \$380,000 GPR annually to reflect the elimination of this program. In his 2009-11 biennial budget, Governor Doyle also proposed to eliminate the SOFSP, but the Joint Committee on Finance deleted that provision from the bill.

7. The average monthly benefit for SOFSP participants equaled approximately \$80 per month in calendar year 2010. Recipient households may receive a mix of state- and federally-funded benefits (for example, if a family has lived in the United States for less than five years,

children in that family would qualify for federally-funded SNAP benefits while the adults would not).

8. In February, 2011, a total of 1,392 individuals received state option FoodShare benefits. In that month, average age was 42 years, average family size was four members, and average monthly income for the family was \$1,076. The following tables provide additional demographic information on SOFSP participants as of February, 2011. Table 1 provides participant age distribution, Table 2 provides the country of origin, and Table 3 provides county of residence. All information is for program participants in February, 2011.

**TABLE 1**

**Age Distribution of SOFSP Recipients**

<u>Age Range</u>	<u>% of Total</u>
18 thru 25	15.9%
26 thru 30	15.9
31 thru 35	13.8
36 thru 40	10.8
41 thru 45	9.4
46 thru 50	5.5
51 thru 55	3.2
56 thru 60	5.9
61 thru 64	4.7
Over 65 Years of Age	<u>14.7</u>
Total	100%

**TABLE 2**

**Country of Origin**

<u>Country of Origin</u>	<u>% of Total</u>
Mexico	23.1%
Albania	6.8
India	6.5
Russia	6.0
Philippines	4.3
China	3.4
Somalia	3.4
Vietnam	3.1
Nigeria	2.5
All other Countries	41.9

**TABLE 3**

**County of Residence**

<u>County or Residence</u>	<u>% of Total</u>
Milwaukee	46.3%
Dane	12.1
Brown	5.5
Kenosha	4.0
Rock	4.0
Racine	3.2
Walworth	2.0
Sheboygan	1.9
Waukesha	1.9
Outagamie	1.8
All other Counties	17.3

9. DHS considers the "base budget" for SOFSP benefits to be \$380,000 GPR annually, even though actual benefit payments have exceeded this amount in each year since 2007-08, and are expected to continue to increase, as shown in the following table.

**TABLE 4**

**SOFS Program Benefit Payments -- Fiscal Years 2007-08 through 2012-13**

<u>Fiscal Year</u>	<u>Benefit Payments</u>
2007-08	\$482,600
2008-09	806,700
2009-10	1,452,000
2010-11 (Estimate)	1,810,300
2011-12 (Estimate)	2,359,200
2012-13 (Estimate)	2,962,200

10. Funding to support these payments is currently budgeted in the same appropriation that funds the income maintenance (IM) contracts with counties, the funeral and burial aids program for indigent individuals, and several other income maintenance related functions. Consequently, during each of the past several years, DHS has funded the increases in costs for the SOFSP benefits, as well as increase in the costs of the Wisconsin funeral and cemetery aids program, by reallocating other funding available in that income maintenance appropriation. The cost increases for these two entitlement programs were partially responsible for the need to provide supplementary funding for that appropriation as part of 2011 Act 13. Act 13 provided an additional \$6.5 million GPR in 2010-12 to that appropriation, primarily to address a funding shortfall for the operation of the Milwaukee Enrollment Services unit, which provides income maintenance services in Milwaukee County.

11. The Department indicates that if the provision is adopted, the program could be ended within 30 to 45 days after passage. Federal law requires that a minimum of ten days notice be given to SOFSP recipients advising them of their change in benefits, before any changes take effect. It would take approximately two weeks to prepare the letter (due to programming changes and coordinating a mass mailing with DOA). To affect the next month of benefits, the letter would need to be mailed before the 15<sup>th</sup> of the previous month. The notice would be provided in the language specified by the recipient at the time of benefit application.

12. Other nutrition programs for which SOFSP participants could still qualify include the emergency food assistance program (TEFAP), which supplies foods to local food pantries, and the special supplemental nutrition program for women, infants, and children (WIC), which provides pregnant women and families with young children with food coupons redeemable at participating retailers. These programs do not have the same residency requirements as SNAP, and therefore may be accessible to individuals who lose SOFSP benefits. The number of current SOFSP participants who may access these programs, or the number that currently do so, is not known.

13. The Committee could choose to adopt the Governor's recommendations (Alternative 1), which would repeal the SOFSP program on the effective date of the bill, and delete \$380,000 GPR annually from the agency's base funding.

14. The Committee could decide to maintain the program and delete the Governor's recommendations. As the total expenditures for this program have exceeded the amount DHS

considers to be the base funding for the program, and the appropriation that funded this program would be modified under the Governor's proposal to centralize income maintenance functions, adopting this alternative, which would fully fund projected benefits costs, would require adding more funding than the amount that would be deleted under the bill.

15. Recent trends in program enrollment have made it difficult to produce estimates of future program costs. Enrollment in the program has grown rapidly, roughly doubling from December, 2008, to December, 2009. In its 2011-13 budget request, DHS proposed to maintain the program and fund it through a new sum certain appropriation that would have been budgeted at \$2,359,200 GPR in 2011-12 and \$2,582,200 in 2012-13. The funding increase to the base (\$1,979,200 GPR in 2011-12 and \$2,582,200 GPR in 2012-13) was based on projected increases in per participant costs and in the SOFSP participation as a share of total FoodShare participation.

Although program expenditures have appeared to level out in recent months, the Committee could budget the program based on the DHS estimates. Under this option, funding in the bill would need to be increased by \$2,359,200 GPR in 2011-12 and \$2,962,200 GPR in 2012-13 to: (a) restore base funding for the program (\$380,000 GPR annually); and (b) fund projected increases that would be needed to fully fund projected benefits costs in the 2011-13 biennium (\$1,979,200 GPR in 2011-2 and \$2,582,200 GPR in 2012-13.) This option is presented as Alternative 2.

16. Since program is an entitlement program, the Committee could decide to adopt the funding change in Alternative 2, but budget funding for benefit payments in a sum sufficient appropriation (Alternative 3). Under this option, the program would be fully funded, even if caseload or costs exceeded budget estimates. Under a sum certain appropriation, DHS would be required to request additional funds from the Legislature if projected benefits payments exceeded the appropriation amount. However, with a sum sufficient appropriation, this additional legislation authorization would not be needed.

17. The Committee could also require DHS to close SOFSP to new participants, but maintain these benefits for current enrollees (Alternative 4). This option would phase out the program over the next five years, after which any current SOFSP participant would presumably meet the five-year residency requirement for federal SNAP eligibility. Under this alternative, funding for SOFSP benefits would be increased by \$1,285,600 GPR in 2011-12 and \$999,200 GPR in 2012-13, assuming that participation would drop gradually from 1,500 to zero over the next five years. However, as the average length of time that individuals participate in SOFSP is six months, the program could fully close prior to that five-year maximum under this alternative.

18. Finally, the Committee could delete the Governor's proposal to eliminate the program, and restore base funding for the program (\$380,000 GPR annually). Under this alternative, DHS would be required to continue to reallocate base funding budgeted for the Division of Health Care Access and Accountability income maintenance-related activities to support SOFSP benefits costs (Alternative 5).

## **ALTERNATIVES**

1. Approve the Governor's recommendations.

2. Delete provision. Create a new DHS sum certain appropriation to fund SOFSP benefits. Increase funding in the bill by \$2,359,200 GPR in 2011-12 and \$2,962,200 GPR in 2012-13.

<b>ALT 2</b>	<b>Change to Bill Funding</b>
GPR	\$5,321,400

3. Delete provision. Create a new DHS sum sufficient appropriation to fund SOFSP benefits. Increase funding in the bill by \$2,359,200 GPR in 2011-12 and \$2,962,200 GPR in 2012-13.

<b>ALT 3</b>	<b>Change to Bill Funding</b>
GPR	\$5,321,400

4. Delete provision. Prohibit the Department from accepting new participants in the state-option FoodShare program beginning on the effective date of the bill. Create an appropriation to fund SOFSP benefits for participants who were enrolled in the program on the effective date of the bill. Increase funding by \$1,285,600 GPR in 2011-12 and \$997,200 GPR in 2012-13.

<b>ALT 4</b>	<b>Change to Bill Funding</b>
GPR	\$2,282,800

5. Delete provision, and restore base funding for the program (\$380,000 GPR annually).

<b>ALT 5</b>	<b>Change to Bill Funding</b>
GPR	\$760,000

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