Consolidated Appropriations Act of 2023 –Human Services Provisions Summary

Last Updated December 21, 2022

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  o Bill Summary

American Public Human Services Association advances the well-being of all people by influencing modern approaches to sound policy, building the capacity of public agencies to enable healthy families and communities, and connecting leaders to accelerate learning and generate practical solutions together.

INFLUENCE. BUILD. CONNECT.
Creation of a Permanent Summer EBT Program

Section 502 of the bill establishes a permanent, nationwide Summer EBT program beginning in Summer 2024 that state SNAP agencies can opt to participate in while paying for the new program through changes to SNAP Emergency Allotments and the Pandemic EBT program. The bill includes the following specifics:

Offsets and Program Changes to SNAP and Pandemic EBT

- **Sunset of SNAP Emergency Allotments** – Ends authority for SNAP Emergency Allotments, with last month of eligible issuances in February 2023.
- **Reduction in Pandemic EBT 2023 Summer Benefits** – Reduces P-EBT benefits for summer 2023 to not exceed $120 per child for the covered summer period (adjusted accordingly for Hawai‘i, Alaska, and territories).
- **Delinks School Year and Summer P-EBT** – Removes the requirement that states have a school year plan in place to operate a Summer P-EBT program and prohibits summer P-EBT plans to cover children that did not participate in the national school lunch or breakfast programs in the immediately preceding school year.

Application and Eligibility Requirements

- **Auto-Enrollment of Directly Certified Students** – Establishes students in participating states that are directly certified for free or reduced price meals during a school year are automatically eligible for Summer EBT in the ensuing summer period.
- **Application for Students not Directly Certified** – Requires participating states to make an application available for eligible children who are not directly certified, including students that participate through Community Eligibility Provision (CEP) schools.
- **Establishes Eligibility for Students in Non-NSLP-Participating Schools** – Requires participating states to include eligible homeschooled students and students in non-NSLP-participating schools in their application process and use the eligibility criteria for free or reduced price lunches to certify them.
- **Opt-Out** – Requires states to allow and establish procedures for eligible households to opt out of participation.
- **Plan Submission** – Requires states to notify USDA of intent to administer Summer EBT in the ensuing summer period by January 1st and to submit for approval a management and administration plan by February 15th

Benefit Amount and Distribution

- **Establishes $40 Monthly Summer Benefit** – Allows for $40 in benefits per month (and higher for Alaska, Hawai‘i, and territories), and indexes it to the Thrifty Food Plan for each year thereafter.
- **Use of EBT or Alternate Electronic Methods** – Permits benefit delivery via EBT card or other electronic methods as determined by the USDA, or other forms as needed.
- **Four-Month Expungement Period** – Directs USDA to establish expungement timelines for Summer EBT benefits not to exceed four months.
- **Requires SNAP Purchasing Rules be Used** – For participating state agencies, and allows only participating Indian Tribal Organizations to follow WIC purchasing rules.
- **Provides for Alternatives for Year-Round Schooling** – Directs USDA to establish alternative plans for issuance of Summer EBT benefits for students under a continuous school calendar.
Program Funding

- **50/50 Administrative Funding** – Provides participating state agencies with funding to cover 50% of administrative expenses. These funds can apply to state agency operating costs, as well as those for local education agencies and other agencies supporting the program.
- **Sunsets Summer EBT Demonstration Pilots** – Beginning in 2024 when nationwide Summer EBT becomes available.

USDA Requirements for Regulations

- **Interim Final Regulations** - Requires USDA to issue interim final regulations not later than 1 year after the enactment of the bill based on best practices and lessons learned from the Summer EBT demonstration projects and Pandemic EBT (P-EBT) and establishes quality assurance and program integrity procedures, and supports Indian Tribal Organizations to streamline program administration.

EBT Benefit Fraud Prevention & Replacement

Section 501 of the bill addresses both long-term prevention and mitigation strategies for third party fraud via card skimming in SNAP, as well as authorizes the use of federal dollars to replace stolen benefits. The bill includes the following specifics:

Prevention and Mitigation Strategies

- **USDA Guidance and Rulemaking on Card Security Practices** – Directs USDA to issue guidance to state SNAP agencies on an ongoing basis that describes security measures that are effective in detecting and preventing benefits theft, are consistent with industry standards for debit and credit cards, and consider the feasibility of cost, availability, and implementation for states. The bill also directs the USDA to promulgate regulations that require states to implement these security measures as well as to implement procedures to replace stolen benefits.
- **Theft Reporting Requirements and Interagency Coordination** – Directs USDA to coordinate with the Administration for Children and Families (ACF), the Attorney General of the United States, retail food stores, EBT contractors, and state agencies to determine how benefits are being stolen and redeemed, establish measures to prevent fraud, and establish standard reporting methods for states to collect and share this data with the USDA.
- **Report to Congress** – Directs the USDA to submit a report to Congress that includes information on the frequency of benefits theft, the measures established to prevent fraud through the aforementioned processes and the industry standards referred to, and make recommendations on how to consistently detect, track, report, and prevent benefits theft through card skimming, cloning, and other similar methods of fraud.

Replacement of Stolen Benefits with Federal Dollars

- **Replacement Benefits Plan Submission** – Requires state SNAP agencies to submit a plan to USDA within 60 days of the enactment of the bill that includes procedures for how states will validate and replace benefits and report the scope and frequency of benefits theft by skimming to the USDA. Each state plan must include:
  a. A signature by the affected household on the benefit theft (which can be collected in writing or electronically);
Medicaid

Sunsetting of Continuous Eligibility Requirement

- Phase Out of Enhanced FMAP – Over calendar year 2023, phases out the enhanced Federal Medical Assistance Percentage (FMAP) as follows
  - January - March 2023 – 6.2%
  - April – June 2023 – 5%
  - July- September 2023 – 2.5%
  - October – December 2023 – 1.5%

- End of Continuous Enrollment Requirement – Sets a date of April 1, 2023 as the end of the Medicaid continuous enrollment requirement and initiation of Medicaid redeterminations

- Maintenance of Address Conditions for Enhanced FMAP – As a condition of receiving enhanced FMAP once redeterminations start, requires that states use the National Change of Address Database, state HHS data, and other reliable sources to maintain up-to-date contact information to the extent practicable, and requires states to attempt contacting individuals through alternative means prior to disenrolling from Medicaid if mail is returned.

- Reporting Requirements During Unwinding Transition – Requires states to report to HHS metrics related to the progress and impact of Medicaid transitions during the period of April 2023 – June 2024
  - Total number of renewals initiated
  - Number of ex parte renewals
  - Number of terminations
  - Number of terminations for procedural reasons
  - Number of individuals enrolled in child health plans or waivers
  - Exchange-specific metrics
  - Call center metrics

- Establishes Penalties for States in Non-Compliance – States failing to comply with redetermination eligibility and reporting requirements are subject to penalties in an amount not to exceed 1% of the FMAP. States failing to submit or implement a corrective action plan to remedy non-compliance may be directed by HHS to suspend making all or some terminations of eligibility from Medicaid that are for procedural reasons and impose a penalty of not more than $100,000 per day.

Post-Partum Coverage Options

- Makes One-Year Post-Partum Coverage Option Permanent – though not mandated for states.
Maternal and Child Home Visiting Program (MIECHV) Reauthorization

- $500 million in base Funding for FY 2023 though FY 2027 – Compared to $400 million in base funding in Bipartisan Budget Act of 2018 (last reauthorization)
- **New Federal Matching Grants** – in addition to the base funding, all eligible entities that comply with statutory conditions can get additional funding that would require a 25% state match.
  - Federal Matching Grants are progressive, starting in FY 2024
    - FY 2024 - $50,000,000 for matching grants
    - FY 2025 - $100,000,000 for matching grants
    - FY 2026 - $150,000,000 for matching grants
    - FY 2027 - $300,000,000 for matching grants
- **Increased Tribal Set Aside** – from 3% of total funding to 6% of total funding
- **Adds the Use of Virtual Visits** – to help reach rural communities
- **Instructs HRSA to Reduce Administrative Burden** - And unnecessary paperwork by at least 15%
- **Adds Requirement for States to Match Non-federal Spending** - From either FY 2019 or FY 2021, whichever is lower, to qualify for base and match funding for FY 2023- FY 2027
- **Adds a 2% Reserve** - Of total state funding to be used for workforce support, retention and improved case management

FY 2023 Human Services Appropriations Highlights

**Child Care and Development Block Grant (CCDBG)**

- **$8.02 Billion in Funding** – For the Child Care and Development Block Grant, an increase of just over 1.8 billion from FY 22 regular appropriations

**Preschool Development Grant (PDG B-5)**

- **$315 Million in Funding** – For the Preschool Development Grant Birth Through Five, an increase of $25 Million from FY22

**Child Welfare**

- **$345 Million in IV-B Part 2 Funding** – Level-funded compared to FY 2022
  - Extends authority for Title IV-B through FY 2023
- **$4 million increase to the IV-E Prevention Services Clearinghouse** – Up from $2.75 million in FY 22 to 6.75 million
- **$7.6 Billion in IV-E Funding** – Compared to $6.96 billion in FY 2022

**Temporary Assistance for Needy Families**

- **Extends Authority for TANF** – Through FY 2023

**Supplemental Nutrition Assistance Program**

- **$153 Billion in FY 2023 Funding** – An increase from $140 billion for FY 2022, and includes the following:
  - $3 billion in contingency reserves, available until September 30, 2025
  - $5.7 billion in state administrative costs
  - $506 million in Nutrition Education and Obesity Prevent Grant (SNAP-Ed) administrative costs
$649 million in SNAP Employment and Training (E&T)

Special Supplemental Nutrition Program for Women, Infants, and Children

$6 Billion in FY 2023 Funding – Consistent with the FY 2022 funding.

Low-Income Home Energy Assistance Program

$6.1 Billion in FY 2023 Funding – Including $5 billion in regular funding (compared to $3.8 billion in FY 2022) and $1.1 billion in emergency supplemental funding previously released.

Child Support

$2.9 Billion in FY 2023 Funding – Compared to $2.8 billion in FY 2022

Refugee and Entrant Assistance

$6.4 Billion in Refugee and Entrant Assistance Funding - For activities under the below sections/acts
- Section 501 of the Refugee Education Assistance Act of 1980
- Section 462 of the Homeland Security Act of 2002
- Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
- Trafficking Victims Protection Act of 2000 (‘‘TVPA’’)
- Torture Victims Relief Act of 1998

$2.4 Billion in Refugee and Entrant Assistance Funding – For grants or contracts with qualified organizations to provide culturally and linguistically appropriate services, including wraparound services, housing assistance, medical assistance, legal assistance, and case management assistance and to issue awards or supplemental awards previously made by ORR.

Extends the Date Range of Afghan Parolees Eligible for Public Benefits – Shifting the eligibility period from July 31, 2021 to September 30, 2022 to July 31, 2021 to September 30, 2023

Provides an Additional $27 Million in Funding for Unaccompanied Children: For any month in 2023 in which the number of unaccompanied children referred to the Department of Health and Human Services exceeds 13,000, $27 Million shall be made available for every 500 unaccompanied children above that level (including a pro rata amount for any increment less than 500).

Social Services Block Grant

$1.7 Billion in FY 2023 Funding – Level-funded compared to FY 2022

Community Services Block Grant

$804 Million in FY 2023 Funding – Compared to $787 million in FY 2022

Head Start

$11.99 Billion in FY 2023 Funding – Compared to $11.04 billion compared to FY 2022