

Department of Finance and Administration

Legislative Impact Statement

Bill: SB295

Amendment Number: S2

Bill Subtitle: TO PROMOTE INTEGRITY IN WELFARE PROGRAMS; AND TO AMEND THE MEDICAID ELIGIBILITY VERIFICATION SYSTEM.

Basic Change :

Sponsors: Sen. Flippo and Rep. Lundstrum

Senate Amendment No. 2 --- SB295-S2 (engrossed 3/17/21) creates an exemption to Arkansas taxpayer confidentiality under § 26-18-303. SB295-S2 allows the Department of Finance and Administration (DFA) to disclose taxpayer information to the Department of Human Services (DHS) regarding eligibility for benefits under the Supplemental Nutrition Assistance Program or the Arkansas Medicaid Program.

Senate Amendment No. 1 --- SB295-S1 (engrossed 3/15/21) clarifies the definition of substantial lottery or gambling winnings and creates an administrative procedure for individuals who fail to report substantial winnings to the Department of Human Services (DHS). SB295-S1 maintains the requirement that the Department of Finance and Administration provide quarterly information concerning individuals enrolled in SNAP or Medicaid assistance that indicates a change in circumstances that may affect eligibility.

Original Bill --- SB295 implements an eligibility verification system for the Supplemental Nutrition Assistance Program (SNAP) and for Arkansas Medicaid. The bill requires the Department of Human Services (DHS) to independently verify all conditions of eligibility assistance prior to authorization of assistance, and during a redetermination of a recipient's eligibility.

SB295 instructs DHS to verify eligibility requirements by reviewing information provided by third parties, including state agencies. The bill specifically requires DHS to review information provided by the Department of Finance and Administration (DFA) concerning changes in circumstances that may affect the eligibility of an individual enrolled in SNAP or Medicaid. SB295 also imposes limitations on hospitals for Medicaid presumptive eligibility determinations.

Revenue Impact :

None.

Taxpayer Impact :

Taxpayer information would be shared with other agencies.

Resources Required :

Computer system updates would be required.

Time Required :

Time for testing and implementation would be needed.

Department of Finance and Administration

Legislative Impact Statement

Bill: SB295

Amendment Number: S2

Bill Subtitle: TO PROMOTE INTEGRITY IN WELFARE PROGRAMS; AND TO AMEND THE MEDICAID ELIGIBILITY VERIFICATION SYSTEM.

Procedural Changes :

Department employees will need to be educated as well as the tax community.

Other Comments :

DFA has access to income information after the close of the tax year and is subject to when and if taxpayers file returns. Data may not reflect current income situations. The information available from DFA in AIRS Tax would only include data reported on the Individual Income Tax return or data captured from W2s submitted by employers which are submitted annually, therefore the data would not be updated on a quarterly basis. The resources and cost associated with implementing a data exchange process with DHS is not expected to be significant; however, the cost would be dependent upon the amount of data, frequency, and complexity of the exchange process implemented.

Legal Analysis :

Senate Amendment No. 2 --- SB295-S2 creates an exemption under the confidentiality requirements under § 26-18-303 that allows the Department of Finance and Administration (DFA) to disclose taxpayer information to the Department of Human Services (DHS). Under § 26-18-303, DFA acts as the custodian of all records and files required to be filed with DFA by any state tax law. These records are confidential and privileged and DFA may not divulge information contained within the records of an individual taxpayer absent a specific exception defined within the statute. SB295-S2 creates such an exception to avoid a violation of state tax confidentiality. SB295-S2 limits the information subject to disclosure to information regarding a change in circumstances that would affect eligibility of an applicant for benefits under the Supplemental Nutrition Assistance Program (SNAP) or the Arkansas Medicaid Program.

Senate Amendment No. 1 --- SB295-S1 clarifies the amount of substantial lottery or gambling winnings that could disqualify households for Supplemental Assistance Program (SNAP) or Medicaid benefits. The amendment creates a hearing process to determine whether an intentional violation of the program has occurred in situations where a household fails to report substantial winnings. SB295-S1 maintains the requirement that the Department of Finance and Administration (DFA) provide quarterly information concerning individuals enrolled in SNAP or Medicaid assistance that indicates a change in circumstances that may affect eligibility.

Original Bill --- SB295 implements an eligibility verification system for the Supplemental Nutrition Assistance Program (SNAP) and for Arkansas Medicaid. The bill requires the Department of Human Services (DHS) to independently verify eligibility requirements for the assistance programs, and it prohibits DHS from accepting self-attestations from applicants concerning eligibility requirements. To ensure that DHS conducts fully independent verification of Medicaid eligibility, SB295 also amends the provisions concerning the definitions for the Medicaid Eligibility Verification System to establish that Arkansas is an assessment state, which is defined as: "a state with a federally facilitated marketplace that can elect to have the federally facilitated marketplace make assessments of Medicaid eligibility and then transfer the account of an individual to the state Medicaid agency for a final determination." To allow DHS to independently verify eligibility, SB295 imposes a condition of eligibility to SNAP or Medicaid assistance that applicants consent to a third party's disclosure of eligibility information,

Department of Finance and Administration

Legislative Impact Statement

Bill: SB295

Amendment Number: S2

Bill Subtitle: TO PROMOTE INTEGRITY IN WELFARE PROGRAMS; AND TO AMEND THE MEDICAID ELIGIBILITY VERIFICATION SYSTEM.

including information about the age, residence, citizenship, employment, application for employment, income, and resources of the applicant. The bill also empowers third parties to release such information that is requested by DHS, including information that is held by other state agencies.

SB295 specifically requires DHS to seek information from the Department of Finance and Administration (DFA) concerning individuals enrolled in SNAP or Medicaid, and for individuals applying for assistance in the programs. The bill requires DHS to enter a data matching agreement with the Office of the Arkansas Lottery and Arkansas Racing Commission to identify individuals with lottery or gambling winnings. SB295 requires DHS to review information provided in the data matching agreement on at least a monthly basis and revoke or deny assistance of an entire household upon verification of any "substantial winnings." The bill does not define the amount of "substantial winnings" that would empower DHS to deny or revoke assistance. Additionally, SB295 requires DFA to provide DHS with information regarding individuals enrolled in SNAP or Medicaid that indicates a change in employment or wages that may affect eligibility, but the bill does not limit DHS to that information. The bill requires DHS to review any information from DFA that would concern a change in circumstances that may affect eligibility on at least a quarterly basis. SB295 authorizes DHS to enter memoranda of understanding with any state agency for the information that the bill requires to be shared between agencies.

SB295 presents administrative challenges to DFA. Under the provisions of § 26-18-303, DFA acts as the custodian of all records and files required to be filed with DFA by any state tax law. These records are confidential and privileged and DFA may not divulge information contained within the records of an individual taxpayer absent a specific exception defined within the statute. Additionally, DFA is required by the federal government to prevent disclosure of federal tax information (FTI) to unauthorized entities.

SB295 requires DFA to disclose confidential taxpayer information to DHS on a quarterly basis. § 26-18-303 does not provide an exemption that would allow DFA to release confidential taxpayer information or FTI to DHS. SB295 contemplates that applicants to SNAP and Medicaid will consent to the disclosure of information from third parties as a condition of their eligibility. There is an exception under § 26-18-303(b)(5) that allows DFA to disclose information at a taxpayer or taxpayer agent's request. It is unclear whether the consent contemplated would be specifically sufficient to authorize DFA to release confidential taxpayer information or FTI to DHS. For this exception to apply to information disclosed under SB295, DFA would be required to keep a record of consent for each applicant to SNAP or Medicaid assistance. Given that SB295 requires DHS to review eligibility information from DFA on a quarterly basis, DFA would be required to confirm the existence of and store proper disclosures on all SNAP or Medicaid taxpayer accounts.

In instances where DFA has used FTI in order to determine a taxpayer's income, DFA is likely prohibited from sharing information derived from FTI with DHS under current federal law.

Additionally, SB295 requires that DFA disclose changes in income or employment. These status changes are not readily available to DFA. A determination of change in employment or earnings would require an auditor to review the records of all taxpayers that receive SNAP or Medicaid assistance. The auditor would also have to determine whether there were any changes in circumstances that may affect eligibility based on earnings or employment. These reviews could only be performed when DFA receives the information, which is typically once a year when the taxpayer files a return for the previous

Department of Finance and Administration

Legislative Impact Statement

Bill: SB295

Amendment Number: S2

**Bill Subtitle: TO PROMOTE INTEGRITY IN WELFARE PROGRAMS; AND TO AMEND THE
MEDICAID ELIGIBILITY VERIFICATION SYSTEM.**

year. DFA would not be able to provide information for individuals who do not file a return.

Moreover, SB295 requires the Arkansas Racing Commission to share data with DHS regarding the identities of individuals with lottery or gambling winnings, and DHS must review that information on a monthly basis for individuals with "substantial winnings." Currently, the Arkansas Racing Commission does not keep records of substantial winnings at casino gaming operations.