

118TH CONGRESS
1ST SESSION

S. 984

To amend the Child Nutrition Act of 1966 to permit video or telephone certifications under the special supplemental nutrition program for women, infants, and children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2023

Mrs. GILLIBRAND (for herself and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Child Nutrition Act of 1966 to permit video or telephone certifications under the special supplemental nutrition program for women, infants, and children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “More Options to De-
5 velop and Enhance Remote Nutrition in WIC Act of
6 2023” or the “MODERN WIC Act of 2023”.

1 **SEC. 2. REDEFINING PRESENCE AT CERTIFICATION.**

2 (a) IN GENERAL.—Section 17(d)(3) of the Child Nu-
3 trition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended
4 by striking subparagraph (C) and inserting the following:

5 “(C) PRESENCE FOR CERTAIN DETER-
6 MINATIONS AND EVALUATIONS.—

7 “(i) IN GENERAL.—Each individual
8 seeking certification, recertification, or a
9 nutritional risk evaluation for participation
10 in the program authorized under this sec-
11 tion shall be provided an appointment that
12 is, at the option of the individual, through
13 any of the following formats:

14 “(I) In person.

15 “(II) By telephone.

16 “(III) Through video technology
17 that permits 2-way, real-time inter-
18 active communications.

19 “(IV) Through other formats
20 that permit 2-way, real-time inter-
21 active communications, as determined
22 by the Secretary.

23 “(ii) ADA COMPLIANCE.—Any format
24 made available for an appointment under
25 clause (i) shall be accessible to an indi-
26 vidual in accordance with the Americans

with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

“(iii) NUTRITIONAL RISK EVALUATIONS FOR REMOTE CERTIFICATION.—If an individual certifies for participation in the program under clause (i) through a format other than in-person, the State agency shall—

“(I) plan to collect the anthropometric data necessary to evaluate the nutritional risk of that individual within 30 days of the appointment; and

“(II) collect such data not later than 90 days after the appointment.

“(iv) INTERIM ELIGIBILITY FOR NUTRITIONAL RISK.—

“(I) IN GENERAL.—A State agency may—

“(aa) consider an applicant who meets the income eligibility standards under this section to be temporarily eligible on an interim basis to participate in the

1 program authorized under this
2 section; and

3 “(bb) temporarily certify
4 that individual for participation
5 in the program immediately,
6 without delaying temporary cer-
7 tification until a nutritional risk
8 evaluation is carried out.

9 “(II) TIMING FOR NUTRITIONAL
10 RISK EVALUATION.—A nutritional risk
11 evaluation for an individual tempo-
12 rarily certified pursuant to subclause
13 (I) shall be completed not later than
14 90 days after the date of temporary
15 certification of the individual.

16 “(III) TERMINATION OF TEM-
17 PORARY CERTIFICATION.—The tem-
18 porary certification of an individual
19 certified pursuant to subclause (I)
20 shall terminate on the earliest of—

21 “(aa) 91 days after the date
22 of temporary certification if the
23 State agency does not collect
24 data on the individual pursuant
25 to clause (iii); and

1 “(bb) the date of a deter-
 2 mination by the State agency
 3 that the individual does not meet
 4 the nutritional risk criteria.”.

5 (b) **TECHNICAL AMENDMENT.**—Section 17(d)(3) of
 6 the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3))
 7 is amended by conforming the margin of subparagraph
 8 (B) to the margin of subparagraph (C).

9 **SEC. 3. REMOTE BENEFIT ISSUANCE.**

10 (a) **IN GENERAL.**—Section 17(f)(6)(B) of the Child
 11 Nutrition Act of 1966 (42 U.S.C. 1786(f)(6)(B)) is
 12 amended—

13 (1) in the third sentence—

14 (A) by striking “vouchers by mail” and in-
 15 serting “food instruments by mail, remote
 16 issuance, or other means”; and

17 (B) by striking “The Secretary” and in-
 18 serting the following:

19 “(iii) **DISAPPROVAL OF STATE**
 20 **PLAN.**—The Secretary”;

21 (2) in the second sentence—

22 (A) by striking “vouchers by mail in its
 23 plan” and inserting “food instruments by mail,
 24 remote issuance, or other means in the State
 25 plan”; and

1 (B) by striking “The State” and inserting
 2 the following:

3 “(ii) STATE PLAN.—The State”; and

4 (3) by striking “(B) State agencies” and all
 5 that follows through “to obtain vouchers.” and in-
 6 serting the following:

7 “(B) DELIVERY OF FOOD INSTRU-
 8 MENTS.—

9 “(i) IN GENERAL.—State agencies
 10 may provide for the delivery of food instru-
 11 ments, including electronic benefit transfer
 12 cards, to any participant through means
 13 that do not require the participant to trav-
 14 el to the local agency to obtain the food in-
 15 struments, such as through mailing or re-
 16 mote issuance.”.

17 (b) REGULATIONS.—The Secretary of Agriculture
 18 shall revise section 246.12(r) of title 7, Code of Federal
 19 Regulations, by striking paragraph (4).

20 **SEC. 4. REPORT TO CONGRESS.**

21 (a) IN GENERAL.—Not later than 1 year after the
 22 date of enactment of this Act, the Secretary of Agriculture
 23 shall submit to the Committee on Agriculture, Nutrition,
 24 and Forestry of the Senate and the Committee on Edu-
 25 cation and Labor of the House of Representatives a report

1 on the use of remote technologies under the special supple-
2 mental nutrition program for women, infants, and children
3 established by section 17 of the Child Nutrition Act of
4 1966 (42 U.S.C. 1786) (referred to in this section as the
5 “program”).

6 (b) CONTENT OF REPORT.—The report submitted
7 under subsection (a) shall include a description of—

8 (1) the use of remote technologies and other
9 digital tools, including video, telephone, and online
10 platforms—

11 (A) to certify eligible individuals for pro-
12 gram services; and

13 (B) to provide nutrition education and
14 breastfeeding support to program participants;

15 (2) the impact of remote technologies, including
16 video, telephone, and online platforms, on certifi-
17 cations, appointments, and participant satisfaction
18 under the program; and

19 (3) best practices—

20 (A) to certify program participants for pro-
21 gram services using remote technologies;

22 (B) to incorporate the use of digital tools
23 into the program certification process;

24 (C) to integrate nutrition education and
25 breastfeeding support services for program par-

1 ticipants into remote technologies and plat-
2 forms; and
3 (D) to securely manage program partici-
4 pant data.

○