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of 1936, as quoted above, it is not possible, in my opinion, for the needs of a family member to be ignored, in making a determination of need, for that reason. Therefore, an amendment of that section would be appropriate if the General Assembly desires that the State participate in WIN.

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OFFICIAL OPINION NO. 40

November 20, 1968

**TOWNSHIP OFFICERS—PUBLIC WELFARE—Federal  
Food Stamp Program—Federal Commodities Distribution  
Program—Same area may not use both**

Opinion Requested by Hon. Marie T. Lauck, State Senator.

This is in response to your question asking whether Marion County may use the Federal Food Stamp Program or the Commodities Distribution Program, or may use both. You further inquired whether retail stores at which federal food stamps are used to purchase food may be required by a trustee of a township to itemize to him the food purchased.

The Federal Food Stamp Program is authorized by 7 U.S.C. § 2011 through § 2025, Pub. L. 88-525, enacted August 31, 1964. The purpose of the law, as set out by Congress in 7 U.S.C. § 2011, is two-fold: (1) to raise levels of nutrition among low-income households, and (2) to strengthen our agricultural economy and create more orderly marketing and distribution of food.

Coupons, or stamps, which are issued to eligible households under the program may be used to purchase food at the face value of the coupons from approved retail stores, 7 U.S.C. § 2013(a). Eligibility of households is determined by those

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state agencies which administer the federally aided public assistance programs (commonly called "welfare") in the state, 7 U.S.C. § 2012(h), 7 U.S.C. § 2014. In Indiana, that agency is the State Department of Public Welfare, Indiana Welfare Act of 1936, section 17, Burns IND. STAT. ANN. § 42-1116. The federal government redeems the coupons from the retailer with federal funds, 7 U.S.C. § 2013, but each household shall be charged for the coupons

"such portion of the face value of the coupon allotment issued to them as is determined to be equivalent to their normal expenditures for food." 7 U.S.C. § 2016(b).

Retail food stores which desire to redeem coupons must submit applications for approval pursuant to regulations issued by the Secretary of Agriculture, 7 U.S.C. § 2017.

Eligible households shall include only those "whose income is determined to be a substantial limiting factor in the attainment of a nutritionally adequate diet." 7 U.S.C. § 2014(a). The standards used by each state agency shall include maximum income limitations consistent with the income limitations it uses in administering federally aided public assistance programs, and are subject to the approval of the Secretary of Agriculture.

In the twenty Indiana counties participating in the federal program food stamps are given to households in three categories: those receiving public assistance from the county department of public welfare, those receiving poor relief from a township trustee of the county, and those who are not receiving assistance from either the county welfare department or the township trustee. The determination of the eligibility for food stamps of households receiving poor relief from a township trustee has been delegated by the Indiana State Department of Public Welfare to the township trustee pursuant to 7 U.S.C. § 2019(b). The county department of public welfare is responsible for determining eligibility of households in the other two categories, and is also responsible for the issuance of coupons in the county. When a township trustee determines that a household is eligible for federal food stamps, he prepares a voucher for the county department of public

welfare in the amount of the household's required cost of the food stamps the household is eligible to purchase. The receipt takes the voucher to the county department of public welfare and receives food stamps having a higher purchasing value than the amount of the voucher. The county department of public welfare sends the voucher, together with a claim, to the trustee, who authorizes the county auditor to pay the claim. The federal government redeems the food stamps from the retail food store which has received them in exchange for food, and also accepts from the county department of public welfare money paid by the county auditor on the claim against the trustee for the household's share of the food stamp cost. The township trustee thus provides the family with the normal amount of food purchasing power he would give it and, because food stamps are utilized, the federal government gives the family additional food purchasing power.

Another federal food program authorizes the Commodity Credit Corporation to donate surplus food commodities to state agencies to use in the assistance of needy persons, 7 U.S.C. § 1431, as last amended by Pub. L. 89-808, § 3(c), November 11, 1966. I assume this is the program to which you refer when you ask whether the food stamp program or the Commodities Distribution Program, or both, may be used in a county.

The federal food stamp statute itself expressly forbids the use of both in an area:

"In areas where a food stamp program is in effect, there shall be no distribution of federally owned foods to households under the authority of any other law except during emergency situations caused by a national or other disaster as determined by the Secretary [of Agriculture]." 7 U.S.C. § 2013(b).

Apparently, under the state plan filed by the Indiana State Department of Public Welfare with the Secretary of Agriculture concerning the use of the federal food stamp program in Indiana, the county departments of public welfare have the option of deciding whether the county will participate in the food stamp program. Since Marion County is participating in

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that program, it may not participate in other distributions of federally owned food. This fact was recognized by the General Assembly in Acts 1965, ch. 130, § 1, which amended Acts 1935, ch. 116, § 34, Burns § 52-177, to require overseers of the poor (township trustees) to participate in surplus agricultural commodity distributions in counties which are *not* participating in the federal food stamp program.

Your second question is whether a township trustee may require retail food stores to itemize for him the food purchased with federal food stamps paid for in part by the township trustee. Apparently some township trustees feel that the statute requiring them to itemize and sign township poor relief orders, and to obtain itemized and sworn claims prior to filing a claim with the county auditor for payment, requires that they obtain itemization of food purchased with the federal food stamps. Acts 1935, ch. 116 § 30, Burns § 52-173. The township trustee is, in making out his voucher, furnishing the money to purchase food stamps, not food. The itemization of the order should include an item for purchase of the stamps. The claim for food stamps delivered pursuant to the voucher would be itemized and sworn to by the county department of public welfare, and given to the township trustee for auditing and certification and filing with the county auditor. The federal government is authorized to audit and authenticate claims of the retail food stores for reimbursement, 7 U.S.C. §§ 2017, 2018, 2020. The question is thus resolved into the question of whether the fact that the federal government is authorized to supervise and audit the redemption of food stamps to insure that federal requirements are met, precludes a local public officer supplying most of the money for the food from also requiring the food stores to report to him how the money he supplies is being expended. The township trustee's budget supplies the largest part of the cost of the food purchases made with federal stamps by persons on poor relief.

The township trustee is, by Indiana statute, the overseer of the poor within his township, Acts 1935, ch. 116, § 1, Burns § 52-144. He is responsible for the expenditure of public funds appropriated to him, and is therefore entitled to find out how they are spent. The exchange of an order on paper from the township trustee for a paper stamp issued by the United

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States government can neither deprive nor relieve him of his responsibility to insure that the township funds paid out on orders from him for poor relief are properly expended. In my opinion, the provisions for a federal relief are properly expended. In my opinion, the provisions for a federal audit do not prohibit or preclude an audit by the township trustee.

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OFFICIAL OPINION NO. 41

November 21, 1968

**TAXATION—EDUCATION—Contributions to university  
foundation as eligible for tax credit when  
paying state income tax.**

Opinion Requested by Hon. Robert L. Jones, Jr., State Representative.

This is in reply to your request for an opinion in regard to tax credits for contributions to institutions of higher education under the Adjusted Gross Income Tax Act of 1963, as amended in 1967. Your questions are:

- “1. The language of the bill refers to contributions made to ‘institutions of higher education’ in the State of Indiana. Within the meaning of this phrase could college and university foundations receive tax credit contributions on behalf of their parent institution?
- “2. For a more specific example, would contributions by an individual or corporation to the Indiana University Foundation or the Purdue Research Foundation be considered as allowable tax credit contributions under the meaning of this Act?