

SURPLUS COMMODITIES PROGRAM: Carter County is entitled to
DIVISION OF WELFARE: reimbursement by the Division of
Welfare for 50% of the sums ex-
pended by the county under the
Surplus Agricultural Commodities Program, and that the fact the
county may be reimbursed for part or all of the remaining 50%
of the sums expended from Federal funds under the Economic
Opportunity Act, does not abrogate their right to reimbursement
by the Division of Welfare under Section 205.960, RSMo. Supp. 1965.

OPINION NO. 199

March 22, 1966

Honorable J. S. Allen
State Representative
Carter County
Van Buren, Missouri



Dear Representative Allen:

This official opinion is issued in response to your
request for a ruling of this office.

Your letter informs us that Carter County has a program
for the acquisition, storage and disposition of surplus agri-
cultural commodities; that the county has entered into an agree-
ment with the Division of Welfare, Department of Public Health
and Welfare, State of Missouri, for reimbursement of 50% of the
sums expended by the county; that this agreement has been in
operation since July 2, 1963; and was made under the provisions
of Section 205.960, RSMo. Supp. 1965. You further inform that
the county has obtained assistance from the local Economic
Opportunity corporation for this program. You have also advised
us by telephone that the county issues county warrants for 100% of
the cost of this program and that after so paying the cost, seeks
reimbursement - 50% from the Division of Welfare and 50% from
the Economic Opportunity corporation.

Your letter also states that on February 17, 1966, you
were notified by the Director of the Division of Welfare that
reimbursement by the division would cease as of March 1, 1966.
We have conferred with the Division of Welfare and have been advised
that the reason for their termination is that 50% of the cost of
the program is reimbursed by Economic Opportunity and that it is

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their interpretation of Section 205.960, that counties are only entitled to reimbursement by the State where the source of the sum expended by the county is local tax revenue.

Section 205.960(3), provides:

"The division of welfare of the department of public health and welfare shall, on or about the fifteenth day of each month, reimburse any county or city not within a county in an amount equal to fifty per cent of the sum expended by the county or city for the acquisition, warehousing and necessary cold storage, safekeeping, maintenance of proper records, issuance of food stamps and distribution of surplus agricultural commodities during the preceding month; provided the expenditures have been approved by the division of welfare." (Emphasis added)

It is the policy of the courts that a statute for the welfare and relief of the needy citizens of this State be construed liberally in favor of the beneficiaries.

Nothing in this section expressly requires that in order to be entitled to reimbursement by the State that the sums expended by the county be derived solely from county tax revenues. Regardless of the source from which a county receives funds, so long as those funds are expended by the county pursuant to this program the county is entitled to the 50% State reimbursement. We need not rely solely on this conclusion here because the cost of the program is paid for from county funds. As we are informed of the facts here, the county, by warrant, pays 100% of the cost of the program. This is an expenditure of county funds. It does not cease to be an expenditure merely because it is reimbursed. Under the statute the State reimburses 50% of the expenditure. This reimbursement obviously does not cause the paying out by the county to cease to be an expenditure. If it did, the statute would be circular absurdity. Likewise, the fact that the county may be subsequently reimbursed by grants under the Economic Opportunity Act does not cause the paying out of the costs of this program to cease to be an expenditure by the county.

Had the legislature intended to limit participation in this program solely to where the source of the sums expended is tax revenue, or intended to prohibit reimbursement to the county from Federal or other sources, this intent could have been easily expressed. The term "expended" simply means paid out. This Carter County has done.

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It is our opinion this is the sole requirement of the statute; namely, that the costs of the program be fixed by the payment of a sum certain by the county. Once this sum is certain and has been paid out by the county, the statute is mandatory that the Division of Welfare "shall . . . reimburse."

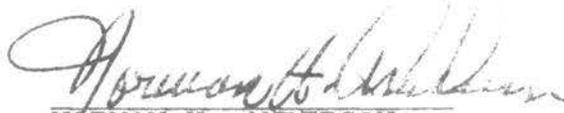
Section 205.960, provides that the Director of the Division of Welfare shall make and promulgate necessary and reasonable regulations for the administration of these programs. It is a basic rule of administrative law that rules and regulations cannot exceed or contradict the prescriptions of the statutes under which they are made. 73 C.J.S., Public Administrative Bodies, § 94. Since, in our opinion, this statute does not require that the source of the sum of money expended by the county be solely tax revenue nor prohibit reimbursement from Federal or other sources, it is further our opinion that any regulation attempting to add this requirement to the statute would be an attempt at administrative legislation and therefore unlawful.

CONCLUSION

Therefore, it is the opinion of this office that Carter County is entitled to reimbursement by the Division of Welfare for 50% of the sums expended by the county under the Surplus Agricultural Commodities Program, and that the fact the county may be reimbursed for part or all of the remaining 50% of the sums expended from Federal funds under the Economic Opportunity Act, does not abrogate their right to reimbursement by the Division of Welfare under Section 205.960, RSMo. Supp. 1965.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Louis C. DeFeo, Jr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General