

OPINION NO. 83-080**Syllabus:**

Pursuant to R.C. 5113.01, a county welfare department is without authority to utilize private food stamp distribution centers for the disbursement of general relief warrants.

To: John T. Corrigan, Cuyahoga County Prosecuting Attorney, Cleveland, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, December 2, 1983

I have before me your opinion request in which you ask whether private food stamp distribution centers may distribute, in addition to food stamp coupons, general relief warrants without violating the provision of R.C. 5113.01, which prohibits the disbursement of poor relief funds through private organizations.

In order to render an opinion in response to your question, it is first necessary to examine the general authority which governs the disbursement of poor relief. Since a county welfare department, which disburses poor relief on the local level, see R.C. 329.04; R.C. 5113.02, is a creature of statute, see R.C. Chapters 329; 5113, it follows that the county welfare department may only act pursuant to those powers expressly conferred upon it by statute or necessarily implied therefrom.

The distribution of poor relief is governed by R.C. 5113.01. In pertinent part, the statute reads as follows:

Poor relief may be given in cash or by direct deposit, by order, or both, and shall be inalienable whether by way of assignment, charge, or otherwise, and exempt from attachment, garnishment, or other like process. Except as provided otherwise in section 329.03 of the Revised Code, local relief authorities shall not disburse funds through any private organization. (Emphasis added.)

Specifically, R.C. 5113.01 prohibits local relief authorities from utilizing any private organization for the purpose of disbursing poor relief funds, including general relief warrants. This section, however, does not set forth a flat prohibition on the use of private organizations for disbursement purposes. A proviso therein allows disbursements through certain private organizations, as set forth in R.C. 329.03. In part, R.C. 329.03(B) states:

Any board of county commissioners of a county for which the controlling board has determined, pursuant to section 5101.34¹ of the Revised Code, that payments of cash relief to recipients of poor relief pursuant to Chapter 5113. of the Revised Code can feasibly be made by direct deposit may by resolution require the county welfare department to obtain from each such recipient an authorization form on which he states either his designation of a financial institution that is equipped for electronic fund transfers and is authorized by law to accept direct deposits of funds by electronic transfer, and account, to which he wishes his payments to be made by direct deposit or his desire to receive such payments in the form of a paper warrant. (Emphasis and footnote added.)

It appears that disbursement of funds through a private organization is limited to financial institutions equipped to handle the electronic transfer of funds. Furthermore, this disbursement is only feasible upon the election of the recipient to receive his funds by direct deposit. The use of financial institutions for direct deposits is explained further in R.C. 319.16, which states in part:

Cash relief payments made to a recipient of poor relief pursuant to Chapter 5113. of the Revised Code who receives cash relief and who has, pursuant to section 329.03 of the Revised Code, designated a financial institution and account for the direct deposit of such payments shall be made by direct deposit to the account of the recipient in the financial institution. The county auditor shall contract with an authorized financial institution for the services necessary to make such direct deposits and draw lump-sum warrants payable to that institution in the amount of the payments to be transferred. (Emphasis added.)

The aforementioned statutory provisions imply that a private food stamp center cannot be used to distribute general relief warrants. First, private food stamp centers are private organizations. R.C. 5113.01 prohibits local relief authorities from disbursing funds through any private organization. Second, food stamp centers do not qualify for the exception set forth in R.C. 329.03. Food stamp centers are not financial institutions, nor are they equipped to handle electronic fund transfers. Pursuant to R.C. 319.16 the county auditor lacks the power to contract with food stamp centers for services necessary to make direct deposits. The county auditor must reserve his contracting power for authorized financial institutions equipped to handle direct deposits payable to electing recipients' accounts.

General relief warrants and food stamp coupons are distributed pursuant to different statutory authority. The State Department of Public Welfare generally administers the distribution of poor relief, see R.C. 5113.09, although, as noted above, each county welfare department has primary responsibility for administering poor relief. See R.C. 329.04; R.C. Chapter 5113. The food stamp program is a federal program, see 7 U.S.C. §§2011-2029, which is administered in the state by the Ohio Department of Public Welfare. See R.C. 329.042. The various county welfare departments distribute food stamps on the local level. See R.C. 329.04; R.C. 329.042; R.C. 329.05. State agencies are responsible under federal law for the issuance of coupons. Specifically, 7 C.F.R. §274.1(b) in pertinent part reads: "The State agency may assign to other parties such as banks, savings and loan associations, the Postal Service, community action agencies, and migrant service agencies the responsibility for issuance and storage of coupons." (Emphasis added.) The permissive language of the above regulation allows a state agency to use

¹ R.C. 5101.34 mandates that "the director of public welfare shall submit to the controlling board . . . a list that enumerates . . . each county in the state in which he believes that payments to recipients of poor relief pursuant to Chapter 5113. of the Revised Code can and cannot be made by direct deposit of funds by electronic transfer to accounts of the recipients."

private organizations for coupon disbursement. This regulation has no counterpart in the general relief area. Nor does the regulation expressly or impliedly allow general relief warrant distribution to occur at private food stamp centers.

Based on the foregoing, it is my opinion, and you are advised, that pursuant to R.C. 5113.01, a county welfare department is without authority to utilize private food stamp distribution centers for the disbursement of general relief warrants.