



524 H 3  
G G M  
964

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

A-51604

March 28, 1979

The Honorable Edmund S. Muskie  
Chairman, Committee on the Budget  
United States Senate

Dear Senator Muskie:

You have requested our opinion on the program implications of maintaining the appropriation authorization limitations for FY 1980 and 1981 now imposed on the Food Stamp Program by sections 4(a) and 4(b) of the Food Stamp Act of 1977, title XIII of Pub. L. No. 95-113, approved September 29, 1977, section 1301, 91 Stat. 961, 979, to be codified at 7 U.S.C. §§ 2011, et seq.

As you point out, the Food Stamp Program has been run as an entitlement program; that is, the enabling legislation provides benefits to any person meeting the eligibility requirements established by the Food Stamp legislation, regardless, in effect, of the cost to the Government.

Section 401 of the Congressional Budget Act of 1974, 31 U.S.C. § 1351 (1976), placed new restrictions on congressional consideration of entitlement authority. When the Food Stamp Amendments of 1977 were enacted, Congress for the first time placed a ceiling on appropriations authorized for this entitlement program. The authorized appropriation ceilings contained in that law were, approximately \$5.848 billion in fiscal year 1978; \$6.159 billion in fiscal year 1979; \$6.189 billion in fiscal year 1980; and \$6.236 billion in fiscal year 1981. You state that these statutory authorization ceilings were based on projected costs for the food stamp program at the time the 1977 amendments were enacted. At this time, however, both the Department of Agriculture and the Congressional Budget Office estimate that the appropriation authorization ceilings for fiscal year 1980 and 1981 will be exceeded by substantial amounts if the program continues to operate under its current guidelines.

You state that the President's budget for fiscal year 1980 recommends repealing permanently the authorization ceilings and leaving the level of funding for the food stamp program to the annual appropriations process. Your initial question is:

"\* \* \* what the program implications would be, under current law, of maintaining the statutory authorization ceilings for FY 1980 and FY 1981, assuming that these ceilings would be exceeded under current program guidelines."

In enacting the 1977 Act, the Congress changed the nature of the food stamp entitlement program not only by the inclusion of the appropriation authorizations, mentioned above, for each of 4 years, but by enacting a provision which ties the program's expenditures directly to the amount of funds appropriated. Thus, the provisions of subsection 18(b), 7 U.S.C. § 2027(b), provide:

"(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection."

Of course, the Congress can choose to appropriate funds at, below, or above the amounts which are authorized to be appropriated. However, once the appropriation for the program has been enacted, the ceilings would have little practical effect. The programmatic implications arise from the actual amounts appropriated. Once the appropriation is passed, subsection 2027(b) is very clear about the Secretary's options if he finds that the requirements of the participating States will exceed the amounts appropriated: the Secretary must direct the States to reduce the value of the allotments to be issued to eligible participating households to the extent he deems necessary to keep from exceeding the amount appropriated. Even without subsection 2027(b), of course, the Secretary would have to be sure that expenditures did not exceed appropriations. See, for example, the provisions of 31 U.S.C. § 665(a) (1976), which provide that no officer or employee of the United States may make or authorize an expenditure or an obligation under any appropriation in excess of the amount available therein.

Accordingly, the only viable option given to the Secretary under this statute is to make reductions in allotments when he realizes that sufficient funds have not been appropriated to carry out the program at the then current level. Obviously, the timing of this decision is critical. The later in the fiscal year the decision is made, the greater the impact (in terms of substantially lower benefits) will be on eligible households.

In this regard you state that you understand that the General Counsel of the Department of Agriculture and the Counsel for the Senate Committee on Agriculture, Nutrition and Forestry believe that there are only two options available to the Department under current law: (1) across-the-board pro rata reductions in benefits to all participants, and (2) simple discontinuance of the program at the point in the year in which funding

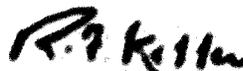
A-51604

expired. Except in an unusual situation, we doubt that full funding of the program until the money is expended (and then program discontinuance) would be authorized. Not only is there a particular provision requiring a reduction in benefits to all participants when the Secretary realizes there will be insufficient funds to maintain the program at its planned rate, but there are general provisions of law which require that agencies spend money at a rate which would prevent them from running out of money by the end of the year. 31 U.S.C. § 665 (1976). The Office of Management and Budget, in exercise of its budgetary management oversight functions, has the responsibility to apportion funds at a rate that assures that an agency does not run out of funds before the end of the year. See 31 U.S.C. § 665(c).

Although you did not raise the question in your letter, we have now learned that you are also interested in knowing whether, if appropriations are not sufficient to cover program costs, the Secretary must make pro rata reductions in the value of food stamp allotments or whether he has some flexibility to reduce allotments on some other basis. The Department of Agriculture has indicated its desire to present its views to us before we render our opinion on this matter. We expect the Department's report in the next few days and we will render our opinion on that issue as promptly as possible.

Accordingly, in our view, the reduction of the value of allotments to be issued to eligible households is the only viable option available to the Secretary of Agriculture if the funds appropriated to carry out the Food Stamp Act are not in fact sufficient to run the program at its full rate. We trust that we have been responsive to your inquiry.

Sincerely yours,

  
DEPUTY Comptroller General  
of the United States

**END**