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NOTES

Direct Payment Housing Subsidies Count as Household Income in Determining Food Stamp Benefits: The Effect of *Ruhe v. Bergland*

I. INTRODUCTION

The federal food stamp program first began in 1939 as a plan to distribute surplus food to needy families.¹ In 1964, Congress enacted a revised food stamp program which expanded the scope of the program beyond allocation of surplus food.² The Food Stamp Act of 1964³ (the 1964 Act) embodied a federal plan to contribute money to needy families in order to increase the families' food purchasing power.⁴ After determining that the 1964 Act needed drastic reform,⁵ Congress enacted a new food stamp program in 1977.⁶ Congress intended the Food Stamp Act of 1977⁷ (the 1977 Act) to eliminate undeserving recipients from the food stamp program.⁸

1. S. REP. NO. 1124, 88th Cong., 2d Sess. 2-3, *reprinted in* 1964 U.S. CODE CONG. & AD. NEWS 3276-77; AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY, FOOD STAMP REFORM 3 (1977) (hereinafter referred to as INSTITUTE FOR PUBLIC POLICY).

2. *See* Food Stamp Act of 1964, Pub. L. No. 88-525, 78 Stat. 703 (codified as amended at 7 U.S.C. §§ 2011-2018 (1982)); INSTITUTE FOR PUBLIC POLICY, *supra* note 1, at 3-4. Under the Food Stamp Act of 1964, certified recipient families exchanged normal food expenditures for food coupons of a higher monetary value. *Id.* In 1964, recipient families received approximately ten dollars in food stamp coupons for each six dollars of normal food expenditures. The four dollars difference represented a federal contribution to the food stamp program. *Id.*

3. 7 U.S.C. §§ 2011-2014 (1982).

4. *See id.* §§ 2011-2018 (1982). By contributing four dollars to every six dollars spent on foodstuffs, the federal government increased the food purchasing power of participating families by 67%. *See id.*

5. *See* H.R. REP. NO. 464, 95th Cong., 1st Sess. 1-3, *reprinted in* 1977 U.S. CODE CONG. & AD. NEWS 1978-79. The House Committee on Agriculture determined that the 1964 Food Stamp Act was too complex and difficult to administer and, therefore, was economically inefficient. *Id.* at 1978. In addition, the House committee determined that fraud and abuse of program benefits was too prevalent under the 1964 Act. *Id.* at 1979.

6. Food Stamp Act of 1977, 7 U.S.C. § 2011 (1982). Congress amended the Food Stamp Act of 1964 numerous times, most importantly in 1971, 1973, 1974 and 1976. INSTITUTE FOR PUBLIC POLICY, *supra* note 1, at 4. Congress incorporated many of the amendments to the 1964 Act into the Food Stamp Act of 1977. H.R. REP. NO. 464, 95th Cong., 1st Sess. 1, *reprinted in* 1977 U.S. CODE CONG. & AD. NEWS 1978.

7. 7 U.S.C. § 2011 (1982).

8. *See* H.R. REP. NO. 464, 95th Cong., 1st Sess. 3-4, *reprinted in* 1977 U.S. CODE CONG. & AD. NEWS 1980-81. In enacting the 1977 Act, Congress intended to eliminate 1.3 million people from the food stamp program and to reduce the food stamp benefits of another 317 million people. *Id.* at 1980. The House committee stated that the 1977 Act would eliminate the non-needy from the food stamp program by excluding high gross income families, students, aliens, and families with considerable assets from food stamp benefits. *Id.* at 1980-81.

In an effort to eliminate undeserving recipients from the food stamp program, Congress included a provision within the 1977 Act which carefully defined the prerequisites for participation in the food stamp program.⁹ Section 5(a) of the 1977 Act provides that a household's income and financial resources shall determine eligibility and the degree of participation in the food stamp program.¹⁰ Section 5(d) of the 1977 Act defines household income as all income from any source, except for twelve exceptions listed in section 5(d)(1)-(12).¹¹ Section 5(d)(1) of the 1977 Act¹² excludes from household income any gain or benefit which is not in the form of money directly payable to a household.¹³ Thus, section 5(d)(1) distinguishes between vendor payments¹⁴ and direct payments.¹⁵ Vendor payments which bypass the actual recipient and flow directly to the recipient's creditor or landlord,¹⁶ do not count as household income for food stamp allocation purposes.¹⁷ However, direct payments flow directly to the actual recipient and are counted as household income, unless specifically exempted.¹⁸

9. See 7 U.S.C. § 2014 (1982). Section 5(a) of the Food Stamp Act of 1977 provides that only those households whose incomes and other financial resources limit their ability to obtain a more nutritious diet are eligible for food stamp benefits. *Id.* § 2014(a).

10. *Id.*

11. *Id.* § 2014(d). The House Committee on Agriculture decided that, as a general rule, all income from whatever source derived should determine a household's level of food stamp benefits. H.R. REP. NO. 464, 95th Cong., 1st Sess. 24, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2001. The committee intended to define household income in the broadest possible manner. *Id.* Exceptions to the general rule include money payable to third parties on behalf of recipients, loans, reimbursement payments, income earned by minors, irregular income, lump sum payments, and money received for the benefit of nonhousehold members. 7 U.S.C. § 2014(d)(1-12) (1982).

12. 7 U.S.C. § 2014(d)(1) (1982).

13. *Id.*

14. See *id.* Vendor payments are monetary benefits paid directly to a billing party on behalf of and in satisfaction of an existing debt owed by a benefit recipient. H.R. REP. NO. 464, 95th Cong., 1st Sess. 28-29, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2005.

15. See 7 U.S.C. § 2014(d)(1) (1982). Direct payments are monetary benefits paid directly to a benefit recipient and earmarked for expenditure in a specified area. H.R. REP. NO. 464, 95th Cong., 1st Sess. 22-23, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 1998-99. See 7 U.S.C. § 2014(d)(1) (1982). Section (d) specifically exempts vendor payments from household income accounting, but, by inference, includes all direct payments unless otherwise specifically excluded in sections 5(d)(1-12). *Id.*

16. See *supra* note 14. Vendor payment recipients cannot allocate housing subsidy payments to improper areas because vendor payments bypass the actual benefit recipients. *Id.*

17. 7 U.S.C. § 2014(d)(1) (1982); H.R. REP. NO. 464, 95th Cong., 1st Sess. 28, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2005; see *Dean v. Butz*, 428 F. Supp. 477, 481 (D. Hawaii 1977) (payments to landlords on behalf of welfare recipients do not count as income); *Anderson v. Butz*, 428 F. Supp. 245, 253 (E.D. Cal. 1975), *aff'd*, 550 F.2d 459 (9th Cir. 1977) (use of housing subsidy vendor payments in determining household income for food stamp purposes violates congressional intent). But see *Compton v. Tennessee Dep't of Public Welfare*, 532 F.2d 561, 563 (6th Cir. 1976) (vendor-payment housing subsidies are readily ascertainable economic benefits and count as household income in determining food stamp benefit levels). See generally H.R. REP. NO. 464, 95th Cong., 1st Sess. 31, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2008. Vendor payments are usually medical payments or housing payments. *Id.* Neither medical nor housing payments count as household income. *Id.*

18. 7 U.S.C. § 2014(d) (1982); H.R. REP. NO. 464, 95th Cong., 1st Sess. 26-28, reprinted in

II. THE CASE

In *Ruhe v. Bergland*,¹⁹ the Fourth Circuit Court of Appeals considered whether a Department of Agriculture regulation²⁰ which contains language almost identical to section 5(d) of the 1977 Act²¹ properly followed from the enabling legislation.²² Section 4(c) of the 1977 Act²³ authorized the Department of Agriculture (USDA) to promulgate regulations to administer the food stamp program and to effectuate the congressional intent embodied in the program.²⁴ Pursuant to this authorization, the USDA issued regulations tracking the direct-payment income inclusion provision of section 5(d)(1) of the 1977 Act.²⁵ In *Ruhe*,²⁶ the plaintiffs, Mildred S. Ruhe, Hester Hembry, and Irene O'Brien, challenged the USDA's tracking regulations as being inconsistent with the 1977 Act²⁷ and in violation of the due process²⁸ and equal protection²⁹ clauses of the United States Constitution.

In *Ruhe*, the plaintiffs were residents of Arlington County, Virginia and received direct-payment housing subsidies from the county's rent assistance program.³⁰ In addition, they received federal food stamps.³¹

1977 U.S. CODE CONG. & AD. NEWS 2002-05. Direct payments include annuity payments, pension payments, retirement and disability benefits, veterans' benefits, workmens' compensation, unemployment compensation, old age and survivors' benefits, strike benefits, and general welfare assistance payments. *Id.*

19. 683 F.2d 102 (4th Cir. 1982).

20. 7 C.F.R. § 273.9(c)(1) (1984).

21. 7 U.S.C. § 2014(d) (1982). Compare *id.* (any gain or benefit not in the form of money payable directly to a household is excluded from food stamp income accounting) with 7 C.F.R. § 273.9(c)(1) (1984) (any gain or benefit which is not in the form of money payable directly to a household is excluded from food stamp income accounting).

22. *Ruhe*, 683 F.2d at 103.

23. 7 U.S.C. § 2013(c) (1982).

24. *Id.*; see *supra* text accompanying notes 7-8 (congressional desire to exclude undeserving recipients from program).

25. See 7 U.S.C. § 2014(d)(1) (1982); 7 C.F.R. § 273.9(c)(1)(i)-(ii) (1984). The United States Department of Agriculture (USDA) issued two regulations that contain language closely resembling section 5(d)(1) of the 1977 Act. See *supra* note 21 (comparing USDA regulations with 1977 Food Stamp Act).

26. 683 F.2d at 105. In *Ruhe*, the plaintiffs argued that the USDA regulations discriminate against recipients of direct-payment housing subsidies. *Id.*

27. *Id.* at 103. In *Ruhe*, the plaintiffs argued that the USDA regulations which include vendor-payment housing subsidies as household income are inconsistent with the purpose of the 1977 Act embodied in the Act's declaration of policy, 7 U.S.C. § 2011 (1982), and with the intent of Congress embodied in the legislative history. *Ruhe*, 683 F.2d at 104-05.

28. U.S. CONST. amend. V. The fifth amendment of the United States Constitution provides in part that no person shall be deprived of property without due process of law. *Id.*

29. *Id.* amend. XIV, § 1. The fourteenth amendment provides in part that no state shall deprive any person of equal protection of the laws. *Id.*

30. *Ruhe*, 683 F.2d at 103. In *Ruhe*, the plaintiffs received direct-payment housing subsidies under the Arlington County Expense Relief Program for Needy Persons. ARLINGTON COUNTY, VA. CODE §§ 44-1 to -4 (1974).

31. *Ruhe*, 683 F.2d at 103. Plaintiff Ruhe received \$80.89 per month from the Arlington County Program and \$35.00 per month in food stamps. *Ruhe v. Block*, 507 F. Supp. 1290, 1293-94 (E.D. Va. 1981), *aff'd sub nom. Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982). Plaintiff Hembry

Relying upon its regulations,³² the USDA considered the plaintiffs' housing subsidies to be household income and decreased each plaintiff's food stamp benefits.³³ The plaintiffs sued the USDA in the United States District Court for the Eastern District of Virginia³⁴ seeking declaratory and injunctive relief.³⁵ In granting the defendant's motion for summary judgment,³⁶ the district court concluded that the USDA regulations were not inconsistent with the 1977 Act³⁷ and were not violative of the plaintiffs' constitutional rights.³⁸ The district court reasoned that since the challenged regulations contained the same language as section 5(d)(1) of the 1977 Act, the regulations were consistent with the 1977 Act.³⁹ The district court further determined that a reasonable basis⁴⁰ existed for the direct-payment income inclusion plan.⁴¹ Therefore, the distinction in the

received \$95.73 per month from the Arlington County Program and \$20.00 per month in food stamps. *Id.* Plaintiff O'Brien received \$88.93 per month from the Arlington County Program and \$42.00 per month in food stamps. *Id.*

32. 7 C.F.R. § 273.9(c)(1)(i)-(ii) (1984).

33. *Ruhe v. Block*, 507 F. Supp. at 1293-94. See Brief for Appellee at 6, *Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982); Joint Appendix for Appellant at 48, *Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982) (affidavit of Mildred S. Ruhe); *id.* at 49 (affidavit of Hester Hembry); *id.* at 52 (affidavit of Irene O'Brien). The addition of the Arlington County money raised the plaintiffs' aggregate income and lowered plaintiffs' aggregate food stamp benefits. See *Block*, 507 F. Supp. at 1293-94; Brief for Appellee, *supra*, at 6. Plaintiff Ruhe sustained a drop in food stamp benefits of between \$13.00 and \$15.00 per month due to the USDA's regulatory income inclusion provisions. *Block*, 507 F. Supp. at 1293. Plaintiff Hembry sustained a drop of \$14.00 per month in food stamp benefits. *Id.*

34. *Block*, 507 F. Supp. at 1290. The plaintiffs brought a class action on behalf of themselves and other recipients of Arlington County housing subsidy payments. *Id.* at 1294. The district court determined that the interests of the named plaintiffs were broad enough to protect the interests of the unnamed plaintiffs and refused to certify the class pursuant to Rule 23 of the Federal Rules of Civil Procedure. *Id.* at 1295; see FED. R. CIV. P. 23.

35. *Block*, 507 F. Supp. at 1291. The plaintiffs sought to have the district court declare the direct-income inclusion provisions contained in section 5(d) of the 1977 Act unconstitutional and sought an injunction to prevent the USDA from including the Arlington County subsidy payments in household income for food stamp allocation purposes. *Id.*

36. *Id.* at 1299.

37. *Id.* at 1298; see *infra* text accompanying note 39.

38. *Block*, 507 F. Supp. at 1299; see *infra* text accompanying notes 40-42.

39. *Block*, 507 F. Supp. at 1295-96; see *supra* note 21 (language of USDA regulations is similar to language in the 1977 Act).

40. See *Block*, 507 F. Supp. at 1298. The district court determined that the proper test by which to evaluate the constitutionality of a welfare classification is the "reasonable basis" test contained in *Dandridge v. Williams*, 397 U.S. 471, 485 (1970). *Block*, 507 F. Supp. at 1298. In *Dandridge*, the Supreme Court held that a social welfare classification does not violate the equal protection clause of the fourteenth amendment if the classification serves a rational purpose in fulfilling a legitimate government objective. *Dandridge*, 397 U.S. at 485. Thus, a social welfare statute can discriminate if the statute possesses a reasonable basis in fulfilling a legitimate government objective. *Id.* Moreover, the district court in *Block* found support for the reasonable basis test in the Supreme Court's language in *McGowan v. Maryland*, 366 U.S. 420, 426 (1961). *Block*, 507 F. Supp. at 1298. In *McGowan*, the Supreme Court held that a statutory discrimination is not unconstitutional if any state of facts reasonably exists to justify the discriminatory classification. *McGowan*, 366 U.S. at 425-26.

41. See *Block*, 507 F. Supp. at 1298. The district court found that Congress included the vendor-payment inclusion provision in the 1977 Act because all money coming into a household which could be spent on food should constitute income for purposes of food stamp allocations. *Id.* The

regulation between vendor payments and direct payments did not violate the plaintiffs' equal protection rights.⁴²

On appeal to the Fourth Circuit Court of Appeals,⁴³ the plaintiffs argued that the district court erred in interpreting the 1977 Act⁴⁴ and that the legislative history accompanying the 1980 amendments⁴⁵ to the 1977 Act clearly showed that Congress did not intend to distinguish between vendor payments and direct payments.⁴⁶ In addition, the plaintiffs argued that the regulatory distinction between vendor payments and direct payments for food stamp allocation purposes unconstitutionally discriminated against recipients of direct-payment subsidies.⁴⁷

In rejecting the plaintiffs' argument that the USDA regulations were inconsistent with the 1977 Act,⁴⁸ the court of appeals found that the 1977 Act specifically authorized the direct-payment and vendor-payment distinction as well as the USDA's household income inclusion regulations.⁴⁹ Concurring with the district court's decision,⁵⁰ the court of appeals held that the similarity between the language in the 1977 Act and the language in the USDA regulation was probative evidence that the regulation was consistent with the Act.⁵¹ The *Ruhe* court stated that Congress had implicitly approved of the USDA's statutory construction of the 1977 Act by not seeking to alter the regulation after the USDA

district court held that this determination by the House committee was a reasonable basis for the 1977 Act's provisions. *Id.*

42. *Id.* at 1299; see *supra* notes 29, 40-41.

43. See *Ruhe*, 683 F.2d at 103. The plaintiffs appealed from the district court's order for summary judgment in favor of the defendants on February 27, 1981. Brief for Appellee at 7, *Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982).

44. *Ruhe*, 683 F.2d at 103-04. The plaintiffs argued that the court of appeals should not read section 5(d) of the 1977 Act alone, but instead should consider the provision in the context of the entire food stamp program. *Id.* at 103. The plaintiffs suggested that the court of appeals should consider Congress' official declaration of policy in enacting the 1977 Act, 7 U.S.C. § 2011, together with any appropriate legislative history in deciding whether the USDA regulations are consistent with the 1977 Act. *Ruhe*, 683 F.2d at 103.

45. Food Stamp Act Amendments of 1980, Pub. L. No. 96-249, 94 Stat. 357 (1980) (codified at 7 U.S.C. § 2011 (1982)).

46. *Ruhe*, 683 F.2d at 104; see H.R. REP. NO. 788, 96th Cong., 2d Sess. 124-25, reprinted in 1980 U.S. CODE CONG. & AD. NEWS 957-58. In the House report, the Agriculture Committee specifically mentioned the Arlington County plan and suggested that direct-payment housing subsidies deserve the same income exclusion status as vendor-payment housing subsidies.

47. *Ruhe*, 683 F.2d at 105. The plaintiffs argued that the USDA regulations unreasonably discriminate against recipients of Arlington County direct-payment housing subsidies by treating other recipients of direct-payment housing subsidies more favorably. *Id.* The plaintiffs noted that recipients of federal direct-payment housing subsidies in Green Bay, Wisconsin and South Bend, Indiana did not have their housing subsidies included as household income. *Block*, 507 F. Supp. at 1298-99. Brief for Appellee at 26, *Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982).

48. *Ruhe*, 683 F.2d at 105-06.

49. *Id.* at 103; see *infra* text accompanying notes 50-51, 53-55.

50. See *Block*, 507 F. Supp. at 1295-96.

51. *Ruhe*, 683 F.2d at 103-04; see *supra* note 21 (the language of USDA regulations is similar to the language in 1977 Act).

promulgated and published the regulation.⁵² Further, the court of appeals found that the USDA brought its construction of the 1977 Act to the attention of the public and Congress.⁵³ The *Ruhe* court determined that Congress would have shown any dissatisfaction with the USDA regulation by amending the regulation's enabling statute.⁵⁴ The court of appeals noted that the 1980 amendments to the 1977 Act did not alter section 5(d)(1) of the 1977 Act. Therefore, the court of appeals held that the USDA had discerned the congressional intent.⁵⁵

In addition, the court of appeals held that since the USDA had correctly discerned congressional intent, the plaintiffs' use of legislative history as evidence⁵⁶ was not controlling on the question of the propriety of the direct-payment income inclusion provision.⁵⁷ The plaintiffs introduced two items of legislative history to suggest that Congress did not intend to distinguish between vendor payments and direct payments for food stamp allocation purposes.⁵⁸ Furthermore, the plaintiffs argued that the House Agriculture Committee's Report which accompanied the 1977 Act indicated that Congress did not intend for housing subsidies to be considered as household income.⁵⁹ However, the *Ruhe* court disregarded the 1977 House report and held that legislative history should not control on statutory construction questions when the statutory language itself is clear.⁶⁰

52. *Ruhe*, 683 F.2d at 104-05.

53. *Id.* at 105.

54. *Id.* The *Ruhe* court relied on the Supreme Court's ruling in *Apex Hosiery Co. v. Leader*, 310 U.S. 469, 487-89 (1940), and held that the USDA construed the 1977 Act correctly. *Ruhe*, 683 F.2d at 104. In *Apex Hosiery*, the Supreme Court held that when Congress does not seek to alter an agency's regulation after the agency has construed a federal statute, courts should presume that the agency has discerned congressional intent correctly. *Apex Hosiery Co.*, 310 U.S. at 489.

55. *Ruhe*, 683 F.2d at 105; see *id.* at 104 n.3; see also *supra* notes 8 & 54 and accompanying text (congressional intent in 1977 Food Stamp Act).

56. See *infra* note 58 (explaining plaintiffs' legislative history evidence).

57. *Ruhe*, 683 F.2d at 104-05.

58. *Id.* The plaintiffs introduced two reports, issued by the House Committee on Agriculture in 1977 and 1980, which tended to show that some members of the House committee disagreed with direct-payment income inclusion. *Id.* at 104. One report suggests that housing subsidies generally should not constitute household income for food stamp purposes. H.R. REP. NO. 464, 95th Cong., 1st Sess. 32, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2008-09.

59. *Ruhe*, 683 F.2d at 104; see H.R. REP. NO. 464, 95th Cong., 1st Sess. 32, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2009; see *supra* note 58 (congressional intent behind housing subsidy payment income inclusion).

60. *Ruhe*, 683 F.2d at 104. The Fourth Circuit Court of Appeals relied on two Supreme Court opinions in holding that legislative histories and other extrinsic evidence pertaining to the 1977 Act were irrelevant: *United States v. Rutherford*, 442 U.S. 544, 551-52 (1979) (courts should imply exceptions to clearly delineated statutes only when such action is essential to prevent absurd results or consequences which vary with the policy of the enactment as a whole); *United States v. Lexington Mill & Elevator Co.*, 232 U.S. 399, 409 (1914) (if a statute's plain and unambiguous language contains the legislative purpose, courts have a duty to give the statute effect according to its terms). The court of appeals in *Ruhe* found that the 1977 Act's plain and unambiguous language contained the legislative purpose and determined that reliance upon this language would not create absurd or unreasonable results. *Ruhe*, 683 F.2d at 104.

In addition to the 1977 legislative history, the plaintiffs argued that the House Agriculture Committee's Report concerning the 1980 amendments to the 1977 Act⁶¹ demonstrated that Congress did not intend to distinguish direct payments from vendor payments.⁶² The plaintiffs identified specific language in the committee's report which suggested that the USDA should revise its regulations to abolish the inequity of the vendor-payment and direct-payment distinction.⁶³ The court of appeals disregarded the 1980 House report⁶⁴ on the ground that while the opinions of a later Congress should receive substantial deference, the intent of the earlier enacting Congress, as contained in the plain meaning of the statute in question, should control.⁶⁵ The *Ruhe* court found additional support for disregarding the 1980 House report. In a letter written by Congressman Thomas S. Foley, Chairman of the House Agriculture Committee, to Congressman Joseph L. Fisher of Arlington County, Chairman Foley stated that any change in the direct-payment income inclusion provision would require legislative action.⁶⁶

Finally, the court of appeals rejected the plaintiffs' argument that the USDA regulations violated the equal protection guarantees of the United States Constitution.⁶⁷ The *Ruhe* court noted that since the USDA regulations and the 1977 Act contained almost identical language, an attack on the constitutionality of the regulation was also an attack on the enabling statute.⁶⁸ The court of appeals held that the statutory distinction between vendor payments and direct payments was not unconstitutional merely because the distinction resulted in an inequitable allocation of food stamps to the plaintiffs.⁶⁹ The *Ruhe* court relied on the Supreme

61. *Ruhe*, 683 F.2d at 104; see H.R. REP. NO. 788, 96th Cong., 2d Sess. 124-45, reprinted in 1980 U.S. CODE CONG. & AD. NEWS 957-58.

62. *Ruhe*, 683 F.2d at 104.

63. *Id.* The 1980 House report mentions that income exclusion status for food stamp allocation purposes should extend to both vendor-payment and direct-payment housing subsidies. H.R. REP. NO. 788, 96th Cong., 2d Sess. 124-25, reprinted in 1980 U.S. CODE CONG. & AD. NEWS 957-58. The 1980 House report also makes direct reference to the Arlington County plan and recommends extension of income exclusion status to subsidies under the plan. *Ruhe*, 683 F.2d at 104.

64. *Ruhe*, 683 F.2d at 105.

65. *Id.*; see *United States v. Rutherford*, 442 U.S. 544, 551 (1979) (subsequent legislative history irrelevant when intent of enacting Congress is clear); *Moore v. Harris*, 623 F.2d 908, 921-22 (4th Cir. 1980) (intent of earlier Congress which enacted statute controls).

66. *Ruhe*, 683 F.2d at 105; see Letter from House Agriculture Committee Chairman, Thomas S. Foley, to Congressman Joseph L. Fisher (September 7, 1979), reprinted in Joint Appendix for Appellant at 71, *Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982).

67. *Ruhe*, 683 F.2d at 105; see *infra* text accompanying notes 69-71.

68. *Ruhe*, 683 F.2d at 105; see *supra* text accompanying note 21 (USDA regulation identical to 1977 Act).

69. *Ruhe*, 683 F.2d at 105. The court of appeals held that the direct-payment income inclusion provisions contained in the 1977 Act did not violate the plaintiffs' equal protection rights because a reasonable basis existed for the statute. *Id.*; see *Dandridge v. Williams*, 397 U.S. 471, 485 (1969) (statutory classification that creates inequality in benefit allotments does not violate equal protection clause if classification possesses reasonable basis); *Lindsley v. Natural Carbonic Gas Co.*, 220 U.S.

Court's decision in *Dandridge v. Williams*⁷⁰ to conclude that a statutory classification that creates inequality in benefit allotments does not violate the equal protection clause of the United States Constitution if a "reasonable basis" exists for the classification.⁷¹ The court of appeals found that the reasonable basis test was the appropriate mechanism for determining the constitutionality of the direct-income inclusion provision.⁷² The court of appeals applied the *Dandridge* reasonable basis test to the facts in *Ruhe* and determined that the inherent lack of government control over the expenditure of direct-payment housing subsidies as compared with the government control over vendor-payment housing subsidies provided a reasonable basis for distinguishing between the two programs.⁷³ Since the 1977 Act's direct-payment inclusion provision possessed a reasonable basis, the court of appeals concluded that the 1977 Act did not violate the plaintiffs' constitutional rights.⁷⁴

III. ANALYSIS

In affirming the decision of the district court,⁷⁵ the *Ruhe* court relied on the "plain meaning rule" of statutory construction.⁷⁶ The plain

61, 78 (1911) (classification having some reasonable basis does not offend equal protection clause merely because in practice classification results in some inequality). Courts generally will not consider a statutory classification unconstitutional if the classification serves a legitimate governmental function and is not arbitrary or capricious in application. M. FORKOSCH, CONSTITUTIONAL LAW 520 (2d ed. 1969). Few classifications are per se unconstitutional. See *id.* For example, the Supreme Court, in *Muller v. Oregon*, 208 U.S. 412, 421-22 (1908), held that sex could serve as a basis for statutory classification in determining maximum allowable working hours. However, in *Adkins v. Children's Hosp.*, 261 U.S. 525, 532 (1923), the Supreme Court held that sex could not serve as a basis for statutory classification in determining allowable working wages. In evaluating whether a statutory classification is unconstitutional, courts routinely consider the practical application of the classification as well as the nature of the classification itself. FORKOSCH, *supra*, at 519-21.

70. 397 U.S. 471 (1969).

71. *Ruhe*, 683 F.2d at 105-06; see *Dandridge*, 397 U.S. at 485 (a welfare classification which fulfills a legitimate governmental objective and is not arbitrary and capricious does not violate equal protection); see *supra* note 40 (explaining *Dandridge* reasonable basis test); see also *supra* note 69 (illustrating application of reasonable basis test).

72. *Ruhe*, 683 F.2d at 105. The court of appeals determined that the *Dandridge* test was appropriate because *Dandridge* dealt specifically with a welfare classification that faced an equal protection clause challenge. *Id.*; see *Dandridge*, 397 U.S. at 485 (reasonable basis test).

73. *Ruhe*, 683 F.2d at 106; see *Richardson v. Belcher*, 404 U.S. 78, 84 (1971) (a statute is not unconstitutional if statutory goals are legitimate and classification is rationally related to achievement of those goals); *Dandridge*, 397 U.S. at 485 (classifications that have reasonable bases do not offend the Constitution). See generally L. TRIBE, AMERICAN CONSTITUTIONAL LAW 991-1102 (1978); Tussman & Tenbroeck, *The Equal Protection of the Laws*, 37 CALIF. L. REV. 341, 348-51 (1949); Note, *Legislative Purpose, Rationality and Equal Protection*, 82 YALE L.J. 123, 128-32 (1972).

74. *Ruhe*, 683 F.2d at 106.

75. *Id.*

76. *Id.* at 104. The Fourth Circuit Court of Appeals cited prior Supreme Court opinions in support of its use of the plain meaning rule. See *supra* note 60; see also *TVA v. Hill*, 437 U.S. 153, 184 n.29 (1978) (courts need not refer to legislative history when statutory language is clear); *Luria Bros. & Co. v. Allen*, 672 F.2d 347, 357 (3d Cir. 1982) (if statutory language is plain, judicial inquiry

meaning rule provides that if a statute's plain and unambiguous language gives a clear indication of the legislative purpose behind the statute's enactment, courts must construe the statute with deference only toward the express terms in the statute.⁷⁷ In effect, the plain meaning rule renders a statute's legislative history irrelevant in statutory construction when congressional intent is clearly manifest in the words of the statute.⁷⁸ In relying upon the plain meaning rule, the court of appeals refused to allow the plaintiffs' legislative history evidence to control.⁷⁹ The *Ruhe* court construed the 1977 Act only with regard to the statute's plain and unambiguous language.⁸⁰ Although judicial support for the plain meaning rule has wavered over the years,⁸¹ today most federal circuit courts accept the rule and avoid reliance upon legislative history when the statutory language is clear.⁸²

Although the plain meaning rule is appropriate in statutory construction when a statute is unambiguous on its face,⁸³ courts routinely give a statute a conservative or liberal construction when the statute's subject matter so demands.⁸⁴ Generally, courts strictly construe statutes which

is at end); *Director, Office Workers' Compensation Programs, U.S. Dep't of Labor v. Bethlehem Mines Corp.*, 669 F.2d 187, 194 (4th Cir. 1982) (language of statute governs statutory construction). *But see Train v. Colorado Pub. Interest Research Group*, 426 U.S. 1, 10 (1976) (ascertainment of meaning apparent on face of single statute need not end inquiry); *Boston Sand Co. v. United States*, 278 U.S. 41, 48 (1928) (Holmes, J., dissenting) (the plain meaning rule is axiom of experience and not a rule of law and does not preclude the consideration of persuasive evidence if such evidence exists); *Cabell v. Markham*, 148 F.2d 737, 739 (2d Cir.), *aff'd sub nom. Markham v. Cabell*, 326 U.S. 404 (1945) (sympathetic and imaginative discovery, not literal interpretation, is the surest guide to statutory construction). *See generally* Murphy, *Old Maxims Never Die: The "Plain Meaning Rule" and Statutory Interpretation in the "Modern" Federal Courts*, 75 COLUM. L. REV. 1299 (1975).

77. *See United States v. Missouri Pac. R.R.*, 278 U.S. 269, 278 (1929) (when words in a statute are clear, courts must treat the express language in the statute as a final expression of the legislature's intent); Murphy, *supra* note 76, at 1299.

78. *See, e.g., TVA*, 437 U.S. at 184 (inspection of legislative history unnecessary when statute is plain and unambiguous); *Pacific Legal Found. v. Goyan*, 664 F.2d 1221, 1226 (4th Cir. 1981) (legislative history should not control in statutory construction unless statute is ambiguous).

79. *Ruhe*, 683 F.2d at 104-06. In *Ruhe*, the court of appeals rejected the plaintiffs' evidence of 1977 legislative history because the 1977 Act was plain and unambiguous on its face and did not need clarification. *Id.* at 104; *see infra* text accompanying notes 93-96. The Fourth Circuit Court of Appeals rejected the plaintiffs' evidence of 1980 legislative history because such evidence was not helpful in discerning prior congressional intent. *Id.* at 105; *see infra* text accompanying notes 104-09.

80. *Ruhe*, 683 F.2d at 104.

81. *Compare TVA*, 437 U.S. at 184 n.29 (courts need not refer to legislative history when statutory language is clear) with *United States v. American Trucking Ass'n*, 310 U.S. 534, 543-44 (1940) (legislative history is never incompetent or irrelevant evidence) and *Caminetti v. United States*, 242 U.S. 470, 490 (1917) (courts must consider words free from doubt in statutes as final expression of legislative intent). *See generally* Murphy, *supra* note 76, at 1300-03.

82. *See supra* note 76 (applications of plain meaning rule); *see generally* Murphy, *supra* note 76, at 1308.

83. *Ex parte Collett*, 337 U.S. 55, 61 (1949); *see supra* note 76 (explanation and analysis of plain meaning rule).

84. *See, e.g., Whirlpool Corp. v. Marshall*, 445 U.S. 1, 13 (1980) (liberal construction given to safety legislation); *Perrin v. United States*, 444 U.S. 37, 49-50 (1979) (strict construction in favor of

stand in derogation of either the common law or human rights.⁸⁵ However, most courts give public welfare statutes a liberal construction.⁸⁶

By recognizing the public welfare interests of the 1977 Act and construing the Act liberally,⁸⁷ the *Ruhe* court could have determined that Congress did not intend for direct-payment housing subsidies to be included as household income.⁸⁸ However, a court cannot construe a statute beyond the limits of congressional intent.⁸⁹ Regardless of any preference that a court might have toward construing a statute in derogation of the common law strictly or toward construing a public welfare statute liberally, courts must give overriding deference to the statute's clear and unambiguous meaning.⁹⁰ Therefore, the plain meaning rule takes precedence over other statutory construction devices.⁹¹ In *Ruhe*,

lenity to defendant given to penal statutes); *United States v. St. Paul, M. & M. R.R.*, 247 U.S. 310, 313 (1918) (strict construction is given to statutes in derogation of principles of equity); *Thompson v. Thompson*, 218 U.S. 611, 618-19 (1910) (strict construction given to statutes in derogation of common law); *Ideal Farms Drainage Dist. v. Certain Lands*, 154 Fla. 554, 564, 19 So. 2d 234, 239 (1944) (liberal construction is given to statutes affecting the general welfare of a state); *Blue v. Beach*, 155 Ind. 121, 130, 56 N.E. 89, 92-93 (1900) (liberal construction given to statutes necessary for protection of health); *Dunbar v. Spratt-Snyder Co.*, 208 Iowa 490, 492, 226 N.W. 22, 22-23 (1929) (liberal construction is given to statutes possessing humanitarian or beneficial attributes); *City of St. Louis v. Carpenter*, 341 S.W. 2d 786, 788 (Mo. 1961) (liberal construction is given to statutes enacted for the advancement of public welfare).

85. See, e.g., *District of Columbia v. R.P. Andrews Paper Co.*, 256 U.S. 582, 587 (1921) (statutes in derogation of human rights receive strict construction); *Detroit United Ry. v. Michigan*, 242 U.S. 238, 251-52 (1916) (statutes in derogation of common rights receive strict construction); *State ex rel. Cranfill v. Smith*, 330 Mo. 252, 257, 48 S.W.2d 891, 893 (1932) (strict construction is given to statutes in derogation of common rights); *Zeig v. Zeig*, 65 Nev. 464, 486, 198 P.2d 724, 734 (1948) (strict construction given to statutes in derogation of common law).

86. See, e.g., *Hall v. Union Light, Heat & Power Co.*, 53 F. Supp. 817, 818-19 (E.D. Ky. 1944) (public welfare statutes receive very liberal construction); *Board of Ins. Comm'rs v. Great Southern Life Ins. Co.*, 150 Tex. 258, 266, 239 S.W.2d 803, 809 (1951) (statutes benefitting public welfare receive liberal construction). See generally 3 C.D. SANDS, STATUTES AND STATUTORY CONSTRUCTION § 71.01 (4th ed. 1973) (courts liberally construe welfare statutes).

87. See 7 U.S.C. § 2011 (1982). Congress enacted the Food Stamp Act to promote the general welfare and safeguard the health and well-being of the nation's households by raising levels of nutrition among low-income households. *Id.*

88. See H.R. REP. NO. 788, 96th Cong., 2d Sess. 124-25, reprinted in 1980 U.S. CODE CONG. & AD. NEWS 957-58. In *Ruhe*, the court of appeals could have relied on the language in that House report which suggested that direct payments should receive the same income exclusion status as vendor payments. If the *Ruhe* court had relied on the House report, the court could have liberally construed section 5(d) of the 1977 Act in favor of the plaintiffs. See *id.*; 7 U.S.C. § 2011 (1982). But see *infra* text accompanying notes 89-91 (explaining why the Fourth Circuit Court of Appeals could not rely on the House report or liberally construe section 5(d) in favor of the plaintiffs).

89. See *Diamond v. Chakrabarty*, 447 U.S. 303, 308 (1980) (courts must interpret statutes within the narrow limits of congressional intent); *United States v. Rosenblum Trucklines*, 315 U.S. 50, 55 (1942) (legislative will is a controlling factor in statutory construction).

90. See *supra* notes 60, 65 & 76 (explaining plain meaning rule); see also *supra* text accompanying notes 77-78 (on controlling weight that plain meaning of statute possesses over legislative history). See generally *Murphy*, *supra* note 76, at 1299; *Jones, The Plain Meaning Rule and Extrinsic Aids in the Interpretation of Federal Statutes*, 25 WASH. U.L.Q. 2, 6 (1939).

91. See *United States v. Rutherford*, 442 U.S. 544, 551-52 (1979) (plain meaning rule); see also *supra* notes 60, 65 & 76 (explaining plain meaning rule); see *supra* text accompanying notes 77-78 (explaining controlling weight of plain meaning rule). See generally *Jones*, *supra* note 90, at 5-7.

the court of appeals refused to liberally construe the 1977 Act beyond the Act's plain and unambiguous language.⁹² Since Congress' intent was clear from the language of the Act,⁹³ the *Ruhe* court did not have the option of liberally construing the 1977 Act.⁹⁴

In addition, the court of appeals correctly refused to consider the 1977 House Agriculture Committee's Report as controlling on the issue of congressional intent.⁹⁵ The *Ruhe* court's determination that the 1977 Act was unambiguous on its face rendered any consideration of the Act's legislative history impermissible.⁹⁶ While most federal circuit courts would agree with the Fourth Circuit's treatment of the 1977 Act's legislative history,⁹⁷ a few circuit courts have held that legislative history is probative evidence even when the statute in question contains plain and unambiguous language.⁹⁸ Even the United States Supreme Court has wavered on the amount of deference that the plain meaning rule deserves.⁹⁹ In *Caminetti v. United States*,¹⁰⁰ the Supreme Court stated that when the language of a statute is plain, no duty of statutory construction arises and courts should look only toward the language of the statute in determining congressional intent.¹⁰¹ However, in *Harrison v. Northern Trust Co.*,¹⁰² the Supreme Court modified the *Caminetti* rule by suggesting that no rule forbids the use of legislative history, regardless of how clear a statute's words may appear.¹⁰³

92. *Ruhe*, 683 F.2d at 104.

93. *Id.*; see also *supra* text accompanying notes 49-54 (intent of Congress in the 1977 Act).

94. *Ruhe*, 683 F.2d at 104; see *supra* notes 81 & 89 (explaining the court's duty in statutory construction when the statute is clear and unambiguous); see also *supra* text accompanying notes 49-54, 60, 89-90 (*Ruhe* court's obligation under plain meaning rule to disregard legislative history and liberal construction of statute).

95. *Ruhe*, 683 F.2d at 104.

96. *Id.* See generally Jones, *supra* note 90, at 6-10.

97. See, e.g., *Collett*, 337 U.S. at 61 (legislative history cannot overcome plain meaning of statute); *Grand Labs. v. Harris*, 644 F.2d 729, 736 (8th Cir. 1981), *cert. denied*, 456 U.S. 927 (1982) (legislative history unimportant if statute is plain on its face); *United States v. Olmo*, 642 F.2d 280, 281 (9th Cir.), *cert. denied*, 454 U.S. 1087 (1981) (the plain language of a statute controls over legislative history).

98. *March v. United States*, 506 F.2d 1306, 1313-14 (D.C. Cir. 1974) (plain meaning rule does not preclude consideration of legislative history); *Schiaffo v. Helstoski*, 492 F.2d 413, 428 (3d Cir. 1974) (court applied the plain meaning rule but accepted legislative history to construe the plain and unambiguous statute); *Cabell v. Markham*, 148 F.2d 737, 739 (2d Cir.), *aff'd sub nom. Markham v. Cabell*, 326 U.S. 404 (1945) (mere words contained in a statute do not always manifest or embody the intent of enacting Congress). See generally H. FRIENDLY, BENCHMARKS 204 (1967) (Justice Frankfurter's opinions on the use of the plain meaning rule to the exclusion of other statutory construction devices).

99. Compare *Caminetti v. United States*, 242 U.S. 470, 485 (1917) (supporting use of the plain meaning rule alone) with *Harrison v. Northern Trust Co.*, 317 U.S. 476, 479 (1943) (supporting use of all relevant information).

100. 242 U.S. 470, 471, 478-79 (1917).

101. *Id.* at 485.

102. 317 U.S. 476 (1943).

103. *Id.* at 479.

In refusing to consider the 1980 House Agriculture Committee's Report, the *Ruhe* court held that subsequent legislative history does not afford assistance in discerning the congressional intent embodied in earlier statutes.¹⁰⁴ The court of appeals was consistent with its earlier decision in *Moore v. Harris*¹⁰⁵ in determining that subsequent legislative history lacks probative value in statutory construction.¹⁰⁶ In *Moore*, the Fourth Circuit Court of Appeals held that legislative history, subsequent to the passage of the Coal Mine Health and Safety Act of 1969,¹⁰⁷ was unpersuasive in discerning the intent of the enacting Congress.¹⁰⁸ In *Moore*, the court of appeals determined that the enacting Congress' intent is controlling with regard to questions of statutory construction.¹⁰⁹ While most circuit courts find subsequent legislation useful in determining prior congressional intent, no circuit court places much probative weight on subsequent legislative history.¹¹⁰

In applying the reasonable basis test,¹¹¹ the *Ruhe* court found that the direct-payment income inclusion provision of the 1977 Act did not violate the plaintiffs' constitutional rights.¹¹² The *Ruhe* court found that the government's desire to exclude undeserving food stamp recipients from the food stamp program by counting all spendable income as household income for food stamp allocation purposes was a reasonable basis for the income inclusion provisions of the 1977 Act.¹¹³ However, the reasonable basis used by the court of appeals, although correct in theory,¹¹⁴ is not persuasive when considered in light of the factual situation in *Ruhe*.¹¹⁵ The court of appeals assumed that the plaintiffs would have allocated

104. *Ruhe*, 683 F.2d at 105.

105. 623 F.2d 908 (4th Cir. 1980).

106. *Ruhe*, 683 F.2d at 104-05; see *infra* text accompanying notes 107-09.

107. 30 U.S.C. § 801 (1982).

108. *Moore*, 623 F.2d at 921-22.

109. *Id.*

110. See *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 380-81 (1969) (subsequent legislation declaring the legislative intent deserves great weight in statutory construction); *National Small Shipments Traffic Conference, Inc. v. Civil Aeronautics Bd.*, 618 F.2d 819, 828 (D.C. Cir. 1980) (subsequent legislative history on the intent of a prior Congress may not be conclusive); *Nevada Power Co. v. Watt*, 515 F. Supp. 307, 324 (D. Utah 1981), *aff'd*, 711 F.2d 913 (10th Cir. 1983) (by implication, statutory construction in light of subsequent legislative history can conflict with the intent of the enacting Congress). But see *Director, Office of Workers' Compensation Programs, U.S. Dep't of Labor v. Clinchfield Coal Co.*, 574 F.2d 1167, 1169 (4th Cir. 1978) (per curiam) (subsequent legislative history is useful to consider degree of protection afforded by statute).

111. *Ruhe*, 683 F.2d at 105-06; see *supra* text accompanying notes 67-74.

112. See *Dandridge*, 397 U.S. at 485.

113. *Ruhe*, 683 F.2d at 105-06.

114. See *Richardson v. Belcher*, 404 U.S. 78, 84 (1971) (if statutory goals are legitimate and classification is rationally related to achievement of those goals, the statute has a reasonable basis). In *Ruhe*, the Fourth Circuit Court of Appeals determined that the lack of governmental control over the Arlington County subsidies could lead to misallocation of the housing funds to other areas. *Ruhe*, 683 F.2d at 106. See generally L. TRIBE, *supra* note 73, at 991-95.

115. See *infra* text accompanying notes 118-19 & 121.

their housing subsidies to other areas, including food expenditures, if the 1977 Act had not included direct-payment housing subsidies within the household income accounting scheme.¹¹⁶ Although the court of appeals never expressly made this assumption, it is implicit within the court's holding¹¹⁷ and is crucial to the court's finding of a reasonable basis behind the direct-payment income inclusion provision.¹¹⁸ Relying upon the assumption that the plaintiffs would have allocated their housing subsidies to other areas, the *Ruhe* court determined that the direct-payment income inclusion provision of the 1977 Act created an incentive for recipient families to spend their direct-payment housing subsidies on rent only.¹¹⁹

The *Ruhe* court's assumption that, if given the chance, the plaintiffs would misallocate their housing subsidy funds, is questionable and fails to consider that the high cost of rental housing in Arlington County was a substantial incentive in persuading the plaintiffs to spend their housing subsidies only on rent.¹²⁰ If the *Ruhe* court's assumption is incorrect, the direct-payment income inclusion provision in the 1977 Act lacks a reasonable basis.¹²¹ Therefore, the *Ruhe* court's holding that section 5(d) does not violate the equal protection clause of the United States Constitution is premised upon a tenuous and suspect assumption.¹²² If the *Ruhe* court's assumption is incorrect and the direct-payment provision lacks a reasonable basis, the direct-payment income inclusion provision

116. *Ruhe*, 683 F.2d at 106. By determining that recipient control of the housing subsidies made the direct-payment inclusion provisions of the USDA regulations reasonable, the court of appeals implicitly suggested that, if the recipients had the opportunity to misappropriate the subsidies fraudulently, the recipients would do so. *Id.* Evidence offered in *Ruhe* does not support this suggestion. See *infra* text accompanying notes 120-22.

117. *Ruhe*, 683 F.2d at 105-06.

118. *Id.* at 105; see *infra* text accompanying note 121.

119. *Ruhe*, 683 F.2d at 106.

120. See *Ruhe v. Block*, 507 F. Supp. 1290, 1293-94 (E.D. Va. 1981), *aff'd sub nom. Ruhe v. Bergland*, 683 F.2d 102 (4th Cir. 1982). Plaintiff Ruhe received \$80.89 per month to assist in paying her monthly rent of \$241.00. *Id.* at 1293. Plaintiff Hembry received \$95.73 per month to assist in paying her monthly rent of \$176.00. *Id.* Plaintiff O'Brien received \$88.93 per month to assist in paying her monthly rent of \$252.00. *Id.* at 1294. All three plaintiffs lived alone. *Id.* at 1293.

121. See *supra* notes 40, 69, 71 & 73. Under the *Dandridge* reasonable basis test, a statutory classification is not violative of the equal protection clause if the classification fulfills a legitimate governmental objective and is not arbitrary or capricious; see also *Dandridge*, 397 U.S. at 485; *Ruhe*, 683 F.2d at 104-05. If the *Ruhe* court's assumption is incorrect, the direct-payment income inclusion provision fails to fulfill any governmental objectives because the plaintiffs would not need additional stimuli to force proper allocation of the subsidy payments to rent. Furthermore, if the *Ruhe* court's assumption is incorrect, the direct-payment income inclusion provision discriminates arbitrarily between direct-payment recipients and vendor-payment recipients.

122. See *Ruhe*, 683 F.2d at 106. In *Ruhe*, the court of appeals suggested that the reasonable basis underlying the direct-payment income inclusion provision stems from the food stamp recipient's control of cash in direct-payment subsidies and the lack of control in vendor-payment subsidies. *Id.* Implicit within the *Ruhe* rational basis is the assumption that direct-payment recipients will misallocate the subsidy funds if possible. See *supra* text accompanying notes 116-19 (explanation of the court of appeals' assumptions in *Ruhe*).

of the 1977 Act violates the plaintiffs' equal protection rights.¹²³

IV. CONCLUSION

In *Ruhe*, the Fourth Circuit Court of Appeals correctly construed and applied a statute of questionable constitutionality.¹²⁴ The treatment of legislative history by the court of appeals was sound.¹²⁵ The court properly discerned the congressional intent behind the 1977 Food Stamp Act.¹²⁶ The *Ruhe* court correctly construed section 5(d) of the Act in light of the 1977 Act's plain and unambiguous language.¹²⁷ The *Ruhe* court applied the plain meaning rule properly,¹²⁸ and held that the legislative history presented as evidence by the plaintiffs was irrelevant.¹²⁹ However, the court of appeals could have erred in finding that a reasonable basis¹³⁰ existed for the direct-payment income inclusion provision and in subsequently determining that section 5(d) of the 1977 Act does not violate the equal protection clause of the Constitution.¹³¹

After *Ruhe*, recipients of direct-payment housing subsidies and food stamps in the Fourth Circuit will receive diminished food stamp benefits.¹³² Good faith and proper allocation of all subsidy money toward housing costs will not relieve direct-payment recipients from a reduction in their food stamp benefits.¹³³ Such recipients must weigh the aggregate benefits of participation in both the direct-payment subsidy program and the food stamp program. As a result of the *Ruhe* decision, the recipients may be forced to participate in only one program. By implicitly forcing some recipients of direct housing subsidies to choose between participation in either the housing subsidy or the food stamp program, the direct-payment income inclusion scheme is inconsistent with the declared pol-

123. See *supra* note 120. Due to the high cost of rental housing in Arlington County, the plaintiffs were not likely to divert the housing subsidy money to other areas. *Id.* The reasonable basis behind the 1977 Act's direct-payment income inclusion provision does not exist in the context of the *Ruhe* facts. See *Ruhe*, 683 F.2d at 103.

124. *Ruhe*, 683 F.2d at 104-06; see *supra* text accompanying notes 76, 79-80, 95-96, 104-06 (explaining the *Ruhe* court's use of the plain meaning rule).

125. See *supra* note 76 (support for *Ruhe* court's use of the plain meaning rule and treatment of legislative history evidence); see *supra* text accompanying notes 76-82 (the *Ruhe* court's use of the plain meaning rule).

126. See *Ruhe*, 683 F.2d at 105; see also *supra* note 122.

127. See *supra* text accompanying notes 91-92, 95-96.

128. *Ruhe*, 683 F.2d at 103-05; see *supra* text accompanying notes 76-82.

129. *Ruhe*, 683 F.2d at 104-05; see *supra* text accompanying notes 60-63 & 78.

130. *Ruhe*, 683 F.2d at 105-06; see *supra* text accompanying notes 70-74, 112-13 (the *Ruhe* court's application of reasonable basis test).

131. *Ruhe*, 683 F.2d at 105-06; see *supra* text accompanying notes 114-16, 120-23 (criticism of the *Ruhe* court's reasonable basis finding).

132. *Ruhe*, 683 F.2d at 103-06. But see 7 C.F.R. § 273.9(c)(1)(ii) (1984) (direct housing subsidy payments paid to recipients of experimental housing subsidy programs in Green Bay, Wisconsin and South Bend, Indiana do not count as household income for food stamp allocation purposes).

133. See 7 C.F.R. § 273.9(c)(1) (1984) (USDA regulation defining household income inclusion plan). The USDA regulation is strict and contains no good faith exceptions. *Id.*

icy of the 1977 Act.¹³⁴ The *Ruhe* decision illustrates a problem in the income accounting procedure of the 1977 Act. The problem in the accounting procedure encourages local governments administering direct-payment subsidy programs to enact vendor-payment subsidy programs.¹³⁵ If the Arlington County housing subsidy plan utilized a vendor-payment mechanism, recipients, such as the plaintiffs in *Ruhe*, would not suffer reduced food stamp benefits.¹³⁶

J. RANDALL MINCHEW*

134. See 7 U.S.C. § 2011 (1982). Congress declared that the 1977 Food Stamp Act's purpose is to promote the general welfare and to safeguard the well-being of the nation's population by raising levels of nutrition among low-income households. *Id.*

135. See 7 C.F.R. § 273.9(c)(1)(i) (1984). By enacting vendor-payment housing subsidy programs in place of direct-payment housing subsidy programs, local governments assist residents in need of housing assistance without depriving residents of food stamp assistance. *Id.*

136. *Id.*

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