

HOUSE BILL NO. 782  
INTRODUCED BY M. CAFERRO

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FROM REQUIRING REPAYMENT FROM FOOD STAMP RECIPIENTS FOR DEPARTMENT ERRORS; ESTABLISHING THE DEPARTMENT'S RESPONSIBILITY FOR REPAYING A FEDERAL CLAIM FOR OVERPAYMENT OF FOOD STAMPS IN CERTAIN CASES; AMENDING SECTIONS 39-51-2208 AND 53-2-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-51-2208, MCA, is amended to read:

**"39-51-2208. Deduction and withholding of unemployment benefits to repay overissuance of food stamps -- definitions.** (1) For the purposes of this section, the following definitions apply:

(a) "State food stamp agency" means any agency of a state or a political subdivision of a state that is responsible for enforcing the repayment of an obligation for overissuance of food stamp ~~coupons~~ benefits.

(b) "Unemployment benefits" means benefits payable under the Montana unemployment insurance law, including amounts payable by the department pursuant to an agreement under any federal law that provides for benefits, assistance, or allowances with respect to unemployment.

(2) An individual filing a new claim for unemployment benefits shall disclose at the time of filing the claim whether or not the individual owes for an uncollected overissuance of food stamp ~~coupons~~ benefits as defined in section 13(c)(1) of the Food Stamp Act of 1977, (7 U.S.C. 2022(c)(1)). If an individual discloses that the individual has an uncollected obligation for overissuance of food stamp ~~coupons~~ benefits and if the department finds that the individual is eligible for unemployment benefits, the department shall notify the state food stamp agency that the individual is eligible for unemployment benefits.

(3) ~~The~~ Except as provided in subsection (7), the department shall deduct and withhold from any unemployment benefits payable to an individual who has an obligation for an uncollected overissuance of food stamp ~~coupons~~ benefits:

(a) the amount specified by the individual to the department to be deducted and withheld, in which case subsections (3)(b) and (3)(c) are not applicable;

(b) the amount, if any, determined by a state food stamp agency for enforcing obligations for overissuance of food stamp ~~coupons~~ benefits, pursuant to an agreement submitted to the department under section 13(c)(3)(A) of the Food Stamp Act of 1977, {7 U.S.C. 2022(c)(3)(A)}, unless subsection (3)(c) is applicable; or

(c) any amount otherwise required to be deducted and withheld from unemployment benefits pursuant to section 13(c)(3)(B) of the Food Stamp Act of 1977, {7 U.S.C. 2022 (c)(3)(B)}.

(4) The department shall pay any amount deducted and withheld under subsection (3) to the appropriate state food stamp agency responsible for enforcing an obligation for overissuance of food stamp ~~coupons~~ benefits.

(5) Deductions may be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the state food stamp agency for the administrative costs incurred by the department under this section.

(6) Any amount deducted and withheld under subsection (3) must be treated as if it were paid to the individual as unemployment benefits and then paid by the individual to the state food stamp agency in satisfaction of the individual's uncollected overissuance of food stamp ~~coupons~~ benefits.

(7) The department may not deduct or withhold unemployment benefits in a case involving overissuance of food stamps that meets the provisions of 53-2-108(2)."

**Section 2.** Section 53-2-108, MCA, is amended to read:

**"53-2-108. Overpayment of assistance -- department errors involving food stamps -- civil penalty when fraud.** (1) If, ~~due to~~ because of department or recipient error, a recipient receives public assistance for which the recipient is not eligible, the portion of payment that the recipient is not entitled to receive may be returned at the discretion of the department.

(2) (a) Except as provided in subsection (3), a recipient who receives an overpayment of food stamp benefits because of a department error in processing or administering the recipient's case is not required to repay the department for the overpayment if:

(i) the recipient notifies the department of the potential error; and

(ii) the department informs the recipient that no error occurred or fails to respond to the notification within 30 days.

(b) If a federal agency seeks repayment of an overpayment of food stamps in a case meeting the provisions of subsection (2)(a):

(i) the department is considered a person connected to the household for purposes of 7 CFR 273.18 and

is liable for reimbursing the federal claim for the overpayment; and

(ii) the recipient is exempt from the unemployment withholding requirements of 39-51-2208.

~~(2)~~(3) If a person obtains any part of an assistance payment through fraudulent means as specified in 53-2-107, 125% of the amount of assistance to which the person was not entitled must be repaid and, until fully paid, is a debt due the state."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to any cases pending before a Montana court on [the effective date of this act].

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