DECISION

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

58 Comp. Gen. 321, distinguished

FILE: B-174226 DATE: May 11, 1981

MATTER OF: District of Columbia's Reporting and Recording Obligations for Disability Determination Services

DIGEST: District of Columbia may obligate fiscal year funding authority allocated to it for purpose of making determination of individual's eligibility for Social Security disability benefits at the time it issues purchase order for medical examination of individual, notwithstanding fact that examination may be performed in next fiscal year. In this case need for examination arises at time person makes claim for disability benefits and scheduling of examination is beyond control of District. 58 Comp. Gen. 321 (1979) distinguished.

This decision is to Audrey Rowe, Commissioner, Commission on Social Services, District of Columbia Department of Human Services (DHS), concerning a possible conflict between the procedures set forth in the decisions of this Office and followed by the District when obligating appropriations by contracts or orders for services and the procedures set forth in the Social Security Administration's (SSA) Disability Insurance State Manual (DISM) to be followed by States when recording and reporting as obligations orders for medical examinations. The Commissioner is under the impression that our decisions require all orders for services to be recorded as obligations against the appropriation current at the time the services were rendered. The DISM, on the other hand, requires that States report and record orders for medical examinations as obligations when they are made. The Commissioner therefore asks which method should be followed.

Section 221(b) of the Social Security Act (Act), 42 U.S.C. § 421 (b), authorizes the Secretary of Health and Human Services (Secretary) to enter into agreements with States to have determinations made as to the nature and duration of an individual's disability for the purpose of various provisions of the Act performed by State agencies, including, for purposes of Title II of the Act, the District of Columbia, 42 U.S.C. § 410(h). The law also provides that each State which agrees to make disability determinations is entitled to receive from trust funds (either the Federal Disability Trust Fund or the Federal Old-Age and Survivors Insurance Trust Fund) reimbursement of costs incurred in carrying out the agreements. 42 U.S.C. § 421(e). The Congress prescribes in annual appropriation acts, under the heading "Limitation on Administrative Expenses" (LAE), the total amount in all the trust funds that is available during the fiscal year for the purpose of administering various

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SSA programs, including the program under which States agree to make determinations of eligibility for disability benefits. See Department of Health, Education, and Welfare Appropriations Act, 1979, Pub. L. No. 95-480, Title II, October 18, 1978, 92 Stat. ~~1582~~. 1571

We have been informally advised by SSA officials that funding authority for reimbursing States their costs for providing disability determination services is initially allocated from the LAE to the Office of Operation Policy and Procedures. That office then allocates this funding authority among the 10 SSA Regional Offices which, in turn, allocate funding authority among individual States. Currently, funding authority is allocated on a quarterly basis and States may not exceed these allocations.

The District submits its annual estimates of costs to the SSA Regional Office in Philadelphia which, after considering all pertinent information, determines the amount to make available to the District for the purpose of administering its agreement. The Regional Office then notifies the District of the amount of funding authority it has approved on a quarterly basis. The District has agreed not to make expenditures exceeding this amount unless approved by the Secretary. Under the program requirements set forth in DISM 406.2, the District is required to file a quarterly statement of obligations which permits SSA to review the rate at which the District is using the funding authority allocated to it. This procedure, required of all other States, facilitates SSA's shifting of funding authority from States which are underutilizing their allocations to States that need additional funding authority because of increased demands.

A person seeking to have his or her eligibility for disability benefits established is initially interviewed and screened by a caseworker and thereafter provided an appointment for a medical examination. This examination is required in order to provide information necessary to help determine the extent and duration of the person's disability. A list of doctors approved for performing these examinations is provided the disability staff. The caseworker calls the doctors on the list until one is reached who can perform the examination without delay (a program requirement, DISM 425.312). The doctors on the list are reimbursed for services rendered at fixed rates and are not paid by the District for cancelled appointments.

At the time the appointment is made, a purchase order authorizing payment for the examination is prepared. However, while the purchase order may be executed at the end of one fiscal year, the examination

may not be scheduled until the next fiscal year. This is because persons may come in for the initial screening too late in the fiscal year to permit their being scheduled for an appointment before the first quarter of the next fiscal year. Also contributing to this problem are persons who fail to keep appointments late in the fiscal year and who must be rescheduled for an appointment during the next fiscal year, or persons whose initial examination late in the fiscal year discloses conditions requiring further examinations by the specialists for whom appointments must be made for examinations during the next fiscal year. The question which then arises is against which fiscal year's allocation of funding authority should the purchase order be recorded and reported as an obligation?

SSA has defined "obligation" for the purpose of recording and reporting obligations under the program, to include:

> "*** payments for goods or services received and commitments to pay for goods or services ordered. They result from the employment of individuals; authorization to travel; ordering services, e.g., consultative examinations; entering into a contract; and similar transactions which require the present or future disbursement of money. In addition to orders and contracts for future performance, obligations incurred include the value of goods and services received, and other liabilities arising without a formal order." DISM 441.21. (Emphasis supplied.)

Additionally, DISM 441.323B1 provides that consultative examinations may be recorded as obligations as of the date a purchase order is issued. Thus for purposes of recording and reporting obligations by States under the program to SSA, an obligation is incurred when the purchase order for the examination is issued.

The District has questioned the propriety of recording and reporting obligations as required by the DISM because of its reading of our decisions concerning the recording of obligations by Federal agencies against fiscal year appropriations. For example, the District points to our decision B-174226, dated March 13, 1972. It is true that we held that the appropriation current at the time the services are rendered is properly chargeable with the cost. However, that decision involved the provision of evaluation services to the Office of Economic Opportunity for a specified period of time - July 12 through July 16 - which at that time was in the next fiscal year. By the very terms of the purchase

order, therefore, the services were intended to fill a bona fide need of a subsequent fiscal year. Thus, this case is clearly distinguishable. The general rule as stated in the decisions cited by the District only precludes recording as obligations contracts for services which do not meet a bona fide need arising during the fiscal year in which the contract is made. See 27 Comp. Gen. 765 (1948).

The circumstances in the present case are very different. Once the person seeks to have his eligibility established by presenting himself at the disability office and is interviewed and screened, it becomes necessary for a medical examination to be performed. DHS has no control over this. This situation is analogous to the procurement of goods when the need arises in one fiscal year but actual delivery cannot possibly be made until the next fiscal year. There the agency is permitted to obligate the full amount of the contract against the appropriation current at the time the contract is made or the order placed rather than the appropriation current at the time the goods are delivered and expenditures made. It follows therefore that the purchase order covering a medical appointment should be treated in the same manner. The District should obligate when the need for this disability determination arises, that is, when an applicant requests an eligibility determination.

Thus, the situation here is to be distinguished from that in the matter of Norton Sound Health Corporation, 58 Comp. Gen. 321 (1979). There a contract for providing medical services to Indians was entered into between the Indian Health Service of the Department of Health, Education, and Welfare and the Norton Sound Health Corporation. When HEW proposed obligating one fiscal year's funds to provide services during the next fiscal year we disapproved. However, there the need which provided the underlying basis for recording an obligation did not arise until a person actually sought medical services. Here the providing of the medical examination is merely one phase of an eligibility determination, the necessity for which arises in the fiscal year in which the person presents himself to claim benefits under the program.

Consequently, in our opinion, the District should record and report obligations as required by the DISM, when the caseworker makes the medical appointment, and should not wait until the examination is made.

Milton J. Socolar

Acting Comptroller General
of the United States