DEPARTMENTAL GRANT APPEALS BOARD

Department of Health, Education, and Welfare

SUBJECT: Kentucky Department of Human Resources
Docket No. 78-135-KY-HD
Decision No. 92

DATE: April 28, 1980

DECISION

By letter dated October 24, 1978, the grantee appealed a disallowance of $55,135 made by the Acting Regional Program Director, Administration for Public Service (APS), Office of Human Development Services (OHDS), on September 27, 1978.

The disallowance involved in this case pertains to a claim by Kentucky for 75% Federal financial participation (FFP) for expenditures made under contract with Kentucky State University (KSU) for Title XX training for the quarter ended June 30, 1978. The Regional Office determined that KSU was not in compliance with 45 CFR 228.82(a)(2) because the University had not been accredited by, had pre-accreditation status with, or applied for accreditation from, the Council for Social Work Education (CSWE), the national accrediting organization for schools of social work, at the time the expenses were incurred.

This decision is based on the State's application for review, the Agency's response to the appeal and both parties' responses to an Order to Show Cause dated September 20, 1979 and a letter requesting further information dated December 19, 1979 from the Executive Secretary of the Board.

Relevant Statutory and Regulatory Provisions

Under Title XX of the Social Security Act, a state may receive Federal reimbursement of 75% for the costs of personnel training and retraining directly related to the provision of certain welfare services (42 USC 1397a(a)(1)). The implementing regulations can be found at 45 CFR 228.80 et seq. Section 228.82(a)(2), the section relied upon by both parties, states that--

> (a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met...
>
> (2) Grants are available only to post secondary, undergraduate and graduate educational institutions and programs that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program

> for which there is a specialized accrediting body shall be accredited by, have pre-accreditation status from, or have applied for, accreditation by such body...

Both parties agree that the appropriate accrediting body in this case is the Council on Social Work Education.

Statement of the Case

According to the State, in 1974, CSWE referred the first consultant to work with KSU's social work program to achieve accreditation. Consultants continued to work with the school into 1977.

On January 19, 1977, the Chairman of the Department of Sociology at KSU wrote to the Council on Social Work Education asking for a "site visit" in January 1978 and stated that a self-study of the social work program should be completed by that date.

On June 17, 1977, the Chairman of the KSU Department of Sociology wrote again to the CSWE explaining that the self-study was being completed and requesting information about the procedure to be followed to request a site visit "as well as candidacy for accreditation."

In response to a letter not in the file, the Director, Field of Social Work, KSU Department of Sociology, wrote to the Commissioner, Bureau for Social Services, State Department for Human Resources, on January 25, 1978, stating that there were "two letters of application" submitted to the CSWE, one on June 17, 1977 (it is not clear whether it is the letter described above) and a second on August 18, 1977 (not in the file). She also stated that "we are presently making preparation for candidacy and will have an on-site-visit in the near future."

KSU's "Baccalaureate Social Work Programs - Application for Initial Accreditation" is dated June 16, 1978.

On September 22, 1978, the CSWE acknowledged receipt of the application for accreditation. The letter states that "the application is considered as having been received during the 1977/78 academic year."

On September 25, 1978, the Training Branch Manager, Bureau of Social Services, State Department for Human Resources, wrote to the CSWE thanking them for confirmation of the receipt of the self-study and of the fact that KSU's application status was pending.

The disallowance of $55,135 was made on September 27, 1978. On October 13, 1978, the CSWE wrote to Region IV's Acting Program Director, APS, OHDS, stating that an application for KSU accreditation "has been received at CSWE in June 1978 - it is pending action by the Commission on Accreditation."

According to a submission filed by the State dated February 5, 1980, the KSU social work program had not yet been accredited. Because of the backlog of accreditation requests, the CSWE site visit committee did not visit KSU until October 1979, and KSU was advised that the CSWE would take action at its March 1980 meeting.

State Position

The State claims that since KSU applied for accreditation with the CSWE on June 16, 1978 as well as submitting its completed self-study, it was eligible for FFP for the quarter during which the application was submitted. As evidence bolstering its contention, it points to the letter dated September 22, 1978 from the CSWE to KSU stating that the "application is considered as having been received during the 1977/78 academic year." The State also argues that since it has been actively pursuing accreditation since 1974, it clearly had pre-accreditation status during that time.

The CSWE Accreditation Process

The relevant regulations do not define the terms "application for accreditation" or "pre-accreditation status." Since HEW has recognized the CSWE as the appropriate specialized accrediting body and has not defined the terms in question, CSWE's policies, procedures and criteria appear to be controlling.

The CSWE documents submitted by the State describe its accreditation process. Before an application for accreditation is submitted by a school, the school is advised to employ a consultant from a list suggested by the CSWE, and a self-study is to be written. The self-study is submitted along with the application for initial accreditation. CSWE then decides whether the school's program is sufficiently developed to warrant a site visit (if the program is eligible for initial accreditation) or by a visit by a representative of the Commission on Accreditation (if candidacy status seems indicated). From the material submitted in the application, the Commission determines whether the program is eligible for initial accreditation or for candidacy. It may not be possible to complete the accreditation review during the academic year in which the application was received. If accredited status is awarded during the succeeding academic year, such status would be made retroactive to the academic year during which the application was submitted.

Had KSU Applied for Accreditation Before June 16, 1978?

The State has based its argument that its submission of an application on June 16, 1978 entitled it to FFP for the quarter ending June 30, 1978 on a letter from the CSWE to KSU stating that the "application is considered as having been received during the 1977/78 academic year." CSWE's statement does not appear to be the unambiguous proof of application status that the State asserts it is, however. Rather, the statement could reasonably be taken to refer to the CSWE's policy of making accreditation retroactive to the academic year in which an application is submitted if the CSWE is unable to complete the accreditation review until the succeeding academic year. Thus, if KSU had been accredited in the 1978/79 academic year, under the CSWE's policy, the accreditation would have been retroactive to the 1977/78 academic year since the application was considered as having been received during that year. In the absence of a decision in the 1978/79 academic year granting accreditation, however, there would appear to be no basis in the CSWE's policies for considering KSU as having applied for accreditation earlier than June 16, 1978.

The regulation provides that FFP is available "if all conditions specified in this section are met..." It is clear that under the regulation FFP became available only when KSU actually applied for accreditation. During the course of the appeal, the Agency determined that the FFP disallowed was for costs incurred before June 16, 1978. The Agency has stated that KSU complied with the condition imposed by the regulation as of June 16, 1978, and it appears that the State has been receiving FFP for services rendered by KSU since that date. Under 45 CFR 228.82 (a)(2), therefore, unless KSU had pre-accreditation status before June 16, 1978 (discussed below), it did not become eligible for FFP until it applied for accreditation on June 16, 1978.

Did KSU Have Pre-Accreditation Status Before June 16, 1978?

It appears from the documents submitted by the State that the CSWE's "candidacy" status could be considered pre-accreditation status within the meaning of 45 CFR 228.82(a)(2). The State did not directly respond to the question in the Order to Show Cause as to whether KSU ever carried formal "candidacy" status from CSWE; it appears from the documents in the file that the school has not yet been accorded that status.

The State argues that since 1974, KSU had been working with consultants approved and recommended by the CSWE toward the goal of accreditation. Since it had been actively pursuing accreditation since 1974, the State argues, it "was in a pre-accreditation status...at the time."

For the Board to find that KSU had pre-accreditation status on this basis, however, would mean that FFP might be available starting at a point when a school merely requests assistance from the CSWE to explore the possibility of accreditation or requests an application for accreditation. The term used in the regulation must connote some sort of formal status from the accrediting body. Unless it is interpreted in this light, HEW might have to provide FFP for an indefinite period of time for an institution which has no real expectation of achieving accreditation.

Conclusion

We find that KSU did not apply for accreditation until June 16, 1978 or have pre-accreditation status prior to that date. Accordingly, we deny the appeal of the disallowance of $55,135.

/s/ Francis D. DeGeorge

/s/ Bernard E. Kelly

/s/ Frank Dell'Acqua, Panel Chairman