

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health, Education, and Welfare

SUBJECT: Michigan Department of Social Services
Docket No. 78-158-MI-SS
Decision No. 77

DATE:
JAN. 31, 1980

DECISION

Both this decision and the one in Docket Nos. 78-70-MI-CS and 79-159-MI-CS (our Decision No. 76) involve parallel issues--whether nonexpendable personal property must first be capitalized and depreciated before it is subject to the appropriate rate of Federal financial participation (FFP).

Procedural Background

By letter dated November 13, 1978, the Associate Commissioner, Office of Family Assistance, Social Security Administration (SSA), notified the Michigan Department of Social Services (DSS) of a disallowance of \$27,322 incurred for the cost of equipment and furnishings in excess of \$300 per unit purchased during the quarters ended December 31, 1977 (\$9,663), March 31, 1978 (\$5,398), and June 30, 1978 (\$12,261). The DSS filed a timely application for review on December 6, 1978. Since there had not been a request for reconsideration before March 6, 1978, the disallowance having been made after that date, the appeal proceeded under 45 CFR Part 16 (1978).

On January 8, 1979, the Executive Secretary requested that a response to the appeal be filed within 30 days by SSA. On February 2, 1979, in response to a request for an extension of time for filing a response, an extension was granted, making the response due by March 9, 1979. A copy of the record compiled by SSA was submitted on February 9, 1979. The SSA response was submitted on March 9, 1979.

An Order to Show Cause was issued on August 23, 1979. At the invitation of the Board, both parties asked that their responses to the Order issued in 78-70-MI-CS be incorporated into the file in this case.

Relevant Statutory and Regulatory Provisions

Title IV-A of the Social Security Act (Sections 401 through 411) established the program for providing assistance to families with dependent children. Section 403(a) states:

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan ... for each quarter ... (3) an amount equal to the sum of

the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan ... (B) one-half of the remainder of such expenditures ...

The general implementing regulations for Title IV-A of the Social Security Act can be found at 45 CFR 201 et seq. (October 1, 1977). Section 205.160 addresses the treatment of non-expendable personal property. 45 CFR 205.160(a)(1) states that items of non-expendable personal property costing less than \$5000 per unit may be subject to FFP in full at the option of the IV-A agency in the State. This is subject to an exception in Section 205.160(a)(3) which concerns the treatment of property acquired by organizational elements treated as indirect cost centers or pools in an SRS cost allocation plan. In these situations, non-expendable personal property costing over \$300 must first be capitalized and depreciated (or be subject to a use allowance). The grantee receives FFP at a rate equal to 50% of the depreciation expense.

45 CFR 74.132 defines non-expendable personal property as:

"tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit..."

45 CFR 201.5(e) states that 45 CFR Part 74, except for Subparts G (Matching and Cost Sharing) and I (Financial Reporting), are applicable to all AFDC grants.

Both the statutory and regulatory provisions relevant in this case enunciate the same basic principles as those provisions relevant to our decision in 78-70-MI-CS and 79-159-MI-CS (Decision No. 76). The arguments raised by both parties parallel those raised in the OCSE cases.

Conclusion

It is our opinion, for the reasons stated more fully in Decision No. 76 , that 45 CFR 205.160(a)(3) does not contradict the wording of Section 403(a) of the Social Security Act and that the regulation imposes a commonsense method for payment of the appropriate federal share of costs for non-expendable personal property.

Accordingly, we deny the appeal and affirm the disallowance of \$27,322.
This decision constitutes the final administrative action on this matter.

/s/ Bernard E. Kelly

/s/ Thomas Malone

/s/ Malcolm S. Mason, Panel Chairman