

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health and Human Services

SUBJECT: New Jersey Department of Human Services DATE: February 27, 1981
Docket Nos. 81-10-NJ-CS
 81-26-NJ-CS
Decision No. 153

DECISION

The State appealed by letters dated January 22, 1981 and February 9, 1981, from determinations of the Regional Representative, Region II, Office of Child Support Enforcement, dated November 26, 1980 and January 22, 1981, disallowing Federal financial participation in the amounts of \$54,409 for the quarter ended March 31, 1980 and \$67,801 for the quarter ended June 30, 1980 claimed under Title IV-D of the Social Security Act (Act) for the provision of child support enforcement services to persons not eligible for the Aid to Families with Dependent Children (AFDC) program. The appeals were docketed by the Board as Nos. 81-10-NJ-CS and 81-26-NJ-CS, respectively. The costs were disallowed on the ground that the State did not comply with the requirement in Section 454(6)(A) of the Act that services be provided to non-AFDC recipients only "upon application filed by such individuals with the State...."

The State's application for review in Docket No. 81-10-NJ-CS was not filed within 30 days of the postmark date of the notification of disallowance, as required by 45 CFR 16.6(a)(1). The State alleged that the notification was not received until December 5, 1980, and through inadvertence was not remitted to counsel for the State until January 21, 1981, and contended that no prejudice would inure by allowing the late filing of the application since it could be consolidated with another appeal involving an identical issue then pending before the Board without the filing of further papers. The appeal to which the State refers was, however, decided by the Board prior to the Board's receipt on January 29, 1981 of the application for review in Docket No. 81-10-NJ-CS. (New Jersey Department of Human Services, DGAB Docket No. 81-3-NJ-CS, Decision No. 146, January 29, 1981.) Nevertheless, the Board Chair has determined that good cause has been shown for granting an extension of time to file the application in Docket No. 81-10-NJ-CS, especially since the subsequently filed application for review in Docket No. 81-26-NJ-CS also raises the identical issue. Accordingly, the Board has accepted the appeal in Docket No. 81-10-NJ-CS as well as the appeal in Docket No. 81-26-NJ-CS.

The parties agreed during a conference call on February 27, 1981 to the Board's consolidation of these cases and the issuance of its decision without further procedural steps. The issue presented in the instant appeals was presented not only in Decision No. 146, cited above, but also in an earlier decision, New Jersey Department of Human Services, DGAB Docket Nos. 80-43-NJ-CS, 80-48-NJ-CS, 80-56-NJ-CS, Decision No. 135, November 23, 1980. In Decision No. 135, the Board concluded that the State's failure to obtain new applications from non-AFDC recipients who had previously applied for and received services under a wholly State-funded program was an appropriate ground for disallowance. The Board reached the same conclusion in Decision No. 146 after the State failed to show cause why the appeal should not be denied based on the prior decision. Absent any such showing in the instant appeals, our conclusion remains the same. We are therefore compelled to sustain the disallowances in full.

Accordingly, the appeals are denied.

/s/ Cecilia Sparks Ford

/s/ Alexander G. Teitz

/s/ Norval D. (John) Settle, Panel Chair