

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health and Human Services

SUBJECT: Washington County Opportunities, Inc.
DATE: November 30, 1981
Docket No. 81-108
Decision No. 232

DECISION

Introduction

Washington County Opportunities, Inc. (Appellant) has appealed from a decision of the Office of Human Development Services, Region IV (Respondent) to disallow a \$310 charge to Appellant's grant. For the reasons set out below, we uphold the disallowance of this amount.

By agreement of both parties, this appeal is being decided under the Board's expedited process as outlined at 45 CFR §16.12, which became effective September 30, 1981 (46 Fed. Reg. 43816). This decision is based upon Appellant's notice of appeal, relevant submissions by both parties and a telephone conference between the parties and the Presiding Board Member on November 20, 1981.

Background

Appellant, a Head Start Agency located in Greenville, Mississippi, was forced to temporarily suspend its operations from July 1979 until September 1979 due to the fact that it had expended its funds for the relevant program year. As a result of the shutdown, Appellant failed to pay its payroll tax for the quarter ending June 1979. When Appellant resumed operations in September 1979 it paid the overdue tax and resultant penalty.

As the result of an August 1980 audit, Respondent became aware of the fact that Appellant had paid the penalty with program funds. Respondent issued a Notice of Disallowance (June 19, 1981) which informed Appellant that payment of the penalty, in this instance, could not be justified under applicable cost principles and must be disallowed.

Analysis

The disallowance was based upon 45 CFR Part 74, Appendix F, G.14 which provides:

Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as the result of compliance with specific

provisions of the grant or contract instructions in writing from the awarding agency.

Appellant admits the facts as outlined above and has not claimed that the penalty was incurred as the result of "compliance with specific provisions of the grant." Instead, Appellant concedes that it failed to pay the tax, thus incurring the penalty, due to fiscal problems encountered during the period in question. Appellant adds that it has upgraded its accounting system so that it will, hopefully, avoid running short of funds during future program years. However, this expenditure is not allowable under applicable cost principles and the Appellant has not presented any legal basis for an exception. Therefore, we must uphold the disallowance.

Decision

For the reasons stated above, the disallowance of \$310 is upheld.

/s/ Norval D. (John) Settle

/s/ Cecilia Sparks Ford

/s/ Donald F. Garrett
Presiding Board Member