

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health and Human Services

SUBJECT: New York State Department of Social Services DATE: November 21, 1986
 of Social Services
 Docket No. 86-146
 Decision No. 813

DECISION

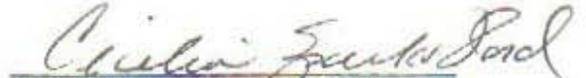
The New York State Department of Social Services (State) appealed a decision by the Health Care Financing Administration (Agency) disallowing \$85,293 claimed under title XIX of the Social Security Act (Act). The disallowance was taken by the Agency on the ground that the State's claims were not filed within the applicable time limits imposed by section 1132 of the Act and the implementing regulations. The State contended that the disallowance must be reversed based on the Agency's failure to follow the procedures set out in 45 CFR 201.15 when it deferred the claims prior to taking the disallowance. The Board rejected this argument in a separate decision issued in this case, however. New York Department of Social Services, DGAB No. 807 (November 17, 1986). Accordingly, we consider here the State's further contention that the claims were timely filed.

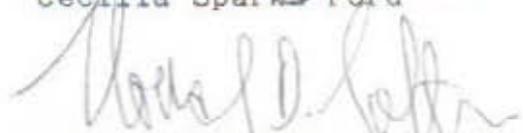
The costs claimed represented medical assistance expenditures originally paid from State funds on behalf of individuals whom the State later determined were eligible for Medicaid. The State argued that the expenditures were not made until the State recognized that they were eligible for federal financial participation, in which case the State met the filing deadline. The State also argued that the claims fell within the statutory exception to the time limits for "audit exceptions, or adjustments to prior year costs." The State noted, however, that the Board had rejected similar arguments in New York State Department of Social Services, DGAB No. 521 (March 6, 1984), and requested that the Board issue a summary decision based upon its holding in DGAB No. 521. The Agency stated it had no objection to the issuance of such a summary decision.

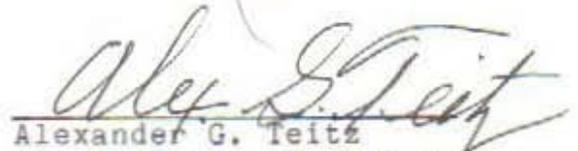
In DGAB No. 521, the Board held that merely having a State audit which showed that the State had underclaimed was not enough to bring the State within the exception for "audit exceptions, or adjustments to prior year costs." The Board also held that the reclassification of expenditures from non-federal participating to federal participating did not

affect the time when the expenditures occurred. There is thus no basis for the State's position that the claims in the case before us now were timely filed.

Accordingly, based on DGAB No. 521, we sustain the disallowance in the amount of \$85,293.


Cecilia Sparks Ford


Norval D. (John) Settle


Alexander G. Teitz
Presiding Board Member