

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

SUBJECT: Florida Department of Children and Families
Docket Nos. A-06-109, A-06-110,
A-07-03
Decision No. 2098

DATE: July 10, 2007

DECISION

The Florida Department of Children and Families (Florida) appealed three final decisions by the Administration for Children and Families (ACF) disallowing a total of \$1,235,274 in federal financial participation (FFP) claimed by Florida as title IV-E training costs for the period October 1, 2005 through June 30, 2006. The three appeals are more fully identified as follows:

1. Board Docket No. A-06-109, appealing ACF's decision, issued in a letter dated June 23, 2006, to disallow \$513,106 (FFP) in title IV-E foster care training costs and \$4,609 (FFP) in title IV-E adoption assistance training costs (total \$517,715), claimed on Florida's title IV-E-1 foster care and adoption assistance report for the quarter ended December 31, 2005.
2. Board Docket No. A-06-110, appealing ACF's decision, issued in a letter dated June 26, 2006, to disallow \$41,669 (FFP) in title IV-E foster care training costs and \$11,328 (FFP) in title IV-E adoption assistance training costs (total \$52,997) claimed by Florida on its IV-E-1 foster care and adoption assistance report for the quarter ended March 31, 2006.
3. Board Docket No. A-07-03, appealing ACF's decision, issued in a letter dated September 21, 2006, to disallow \$657,383 (FFP) in title IV-E foster care training costs and \$7,179 (FFP) in title IV-E adoption assistance training costs (total \$664,562) claimed by Florida on its IV-E-1 foster care and adoption assistance report for the quarter ended June 30, 2006.

In each appeal, Florida claimed the FFP for costs of training persons for employment with private agencies with which Florida contracts for delivery of title IV-E foster care and adoption assistance services. Florida claimed the costs at the 75% rate provided for training IV-E "personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision . . ." in section 474(a)(3)(A) of the Social Security Act (Act). See also 45 C.F.R. § 1356.60(b)(1)(i) (providing for the costs of "[t]raining personnel employed or preparing for employment by the State or local agency administering" the IV-E plan). ACF disallowed Florida's claims at the 75% rate on the ground that FFP for title IV-E training costs is not available for training persons for employment at private agencies. In its appeals, Florida disputes ACF's legal basis for the disallowances. Florida also disputes ACF's calculations of the disallowed amounts.

Proceedings in these three appeals were stayed, at Florida's request and with no objection from ACF, pending the Board's decision in Florida's earlier appeal, Florida Department of Children and Families, Docket No. A-06-27. That case involved what the parties agree is the same legal issue presented in Docket Nos. A-06-109, A-06-110 and A-07-03, whether costs incurred by Florida in training personnel for employment with private agencies that provide title IV-E services under contracts with the State are eligible for FFP at the 75% rate.* In Docket No. A-06-27, Florida claimed title IV-E FFP at the 75% rate for the costs of training persons for employment with private agencies for the period January 1, 2002 through March 31, 2005. During the proceedings in A-06-27, ACF agreed to allow Florida's claims at the 50% rate of FFP provided for title IV-E administrative costs under section 474(a)(3)(E) of the Act and 45 C.F.R. § 1356.60(c) and gave Florida the opportunity to withdraw its claims for IV-E training costs and resubmit them as claims for IV-E administrative costs.

The Board issued its decision in Docket No. A-06-27 on May 3, 2007. Florida Dept. of Children and Families, DAB No. 2080 (2007). The Board upheld in principle ACF's disallowance of the

* In its notices of appeal for Docket Nos. A-06-109, A-06-110, A-07-03, Florida described the legal issue as "identical" to that raised in Docket No. A-06-27. Notice of Appeal dated August 1, 2006, at 2 (appealing ACF's decisions of June 23 and June 26, 2006); Notice of Appeal dated October 5, 2006, at 2. ACF did not disagree with that characterization.

costs of training persons for employment with private agencies (\$1,076,006) that Florida claimed as title IV-E training costs at the 75% rate of FFP for the period January 1, 2002 through March 31, 2005. At the parties' request, the Board did not address in its decision any issues raised by the parties regarding calculation of the amount of the disallowance. Instead, the Board stated that ACF should consult with Florida to determine the amount of the claims at issue and then issue a written notice to Florida stating the amount of the disallowance and how that amount was determined. The Board further stated that if Florida disputed ACF's determination of the disallowance amount following that process, Florida could appeal ACF's determination of the disallowance amount within 30 days of receiving that determination.

In an order to show cause dated May 11, 2007, the Board proposed to issue a summary decision sustaining in principle the disallowances in A-06-109, A-06-110 and A-07-03, based on the decision in DAB No. 2080, unless either party objected within 15 days of receipt of the order. In e-mails dated June 26 and June 28, 2007, each party confirmed that it had no objection to the Board's proposal.

Conclusion

We fully adopt and apply in the instant decision in Docket Nos. A-06-109, A-06-110 and A-07-03 the legal analyses and conclusions in the Board's decision in DAB No. 2080 and decide here, as we did there, that FFP at the 75% rate for title IV-E training costs is not available for training persons who will be employed in private agencies. Accordingly, we uphold the disallowances in Docket Nos. A-06-109, A-06-110 and A-07-03 in principle. As stated in DAB No. 2080, ACF should, upon receipt of this decision, consult with Florida to determine the amount of the claims that are at issue in each case. After such consultation, ACF should issue a written notice to Florida stating the amount of the disallowances and how that amount was determined in each case. If Florida disputes ACF's determination of the disallowance amount in any of the cases, it may appeal that

determination to the Board pursuant to 45 C.F.R. Part 16 within 30 days of receiving it.

_____/s/
Judith A. Ballard

_____/s/
Leslie A. Sussan

_____/s/
Sheila Ann Hegy
Presiding Board Member