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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: A-51604

DATE: August 25, 1981

MATTER OF: Reimbursement to States of Food Stamp Program
Administrative Costs

DIGEST: 1974 Amendment to Food Stamp Act increased percentage of Federal reimbursement to States for administrative costs of program. Secretary of Agriculture issued regulations stating increased rate would become effective for all costs incurred after October 1, 1974. Secretary may reimburse all States, whether accounting for costs on cash or accrual basis, at rate effective when obligations arose.

The Commissioner of Human Resources, State of Texas, (joined by the Deputy Director, California Department of Social Services), has asked that we reconsider our decision, Reimbursement to States of Food Stamp Program Administrative Costs, A-51604, February 19, 1980. That case addressed the question of whether the Department of Agriculture in reimbursing States for part of their administrative costs in carrying out the Food Stamp Program, should reimburse States using a cash basis method of accounting at the rate effective when the payments were actually made by the State, or at the rate effective when the administrative costs were incurred, i.e., when a legal obligation to pay arose. Because the States did not have an opportunity to present their position when we first considered this matter, we agreed to reconsider.

In our previous decision, A-51604, February 19, 1980, we concluded that Agriculture's decision to reimburse all States, regardless of whether they used a cash basis or accrual basis of accounting, at the rate in effect when the costs were incurred, is not inconsistent with either the statute or regulations. Thus, citing the well established legal principle that great deference be given to the interpretation of a statute by the agency charged with its administration and that the agency's position will only be overturned if it is found to be arbitrary and capricious, we saw no basis to challenge Agriculture's interpretation.

The States argue, however, that a proper reading of the regulations suggests that States using a cash basis method of accounting should be reimbursed at the rate in effect on the date the administrative costs are actually paid. In reaching this conclusion, the States contend that section 271.2 (a) of the regulations, which provides for reimbursement at the rate in effect when the costs are incurred, must be read in conjunction with several other sections of the regulations to determine just when costs are considered to be incurred for a cash basis State.

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First, they cite the requirement that:

"Submission of claims for payments of such [administrative] costs shall be in accordance with Part 275 of this subchapter." 7 C.F.R. § 271.2(c).

Additionally, the States refer to Part 275, which deals generally with payment of administrative costs of State agencies. Specifically, the States point to the section on financial reporting requirements:

— "Accounting basis. Each State agency shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which is used in maintaining its accounting records. The basis used by a State agency must be consistent for all programs it administers and for which it is claiming against the Federal Government." 7 C.F.R. § 275.9(d)(2).

The two States maintain that any interpretation of section 271.2(a) should take into consideration sections 271.2(c) and 275.9(d)(2); and that—

" * * * When those regulations are read together and considered as a whole, it is apparent that payment for administrative costs should be made by USDA pursuant to each State's claim properly submitted on the same accounting basis which the State uses in maintaining its accounting records consistent with all its programs * * *."

Thus, Texas and California read sections 271.2(c) and 275.9(d)(2) together as requiring them to submit claims for administrative costs on a cash basis, and see this as in turn requiring Agriculture to reimburse them on the basis of the rate in effect when the costs are recognized for accounting purposes.

Agriculture, on the other hand, sees no inconsistency between its regulations which permit reimbursement to a cash basis State only when the State has paid for the services it received, and the regulation which pegs the rate of reimbursement to the State as of the date the administrative costs were actually incurred by the State. The former regulations are designed to recognize a State's preferred accounting system. The latter regulation is not based on accounting principles but on its interpretation of the statute. In ordinary parlance, a cost is incurred when a legal obligation to pay arises. The fact that some States choose to record the obligation immediately and others only when payment is made is immaterial. For purposes of determining

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the proper rate of reimbursement, the date should be based on the same principle for all States.

We appreciate the States' position and recognize that the question is a close one. But, we are unable to find that the Secretary's interpretation is arbitrary, capricious, or legally untenable. In view of the broad discretion in administering the program granted to the Secretary under 7 U.S.C. § 2013(c) and the well settled rules of statutory interpretation cited in our previous decision, we uphold his position.

Accordingly, we affirm our previous decision.



Acting Comptroller General
of the United States