



Head Start Grantee Prevails in Dispute over Reimbursement for Prior Years' Costs¹

Reginald Lourie Center for Infants and Young Children, DAB No. 2262 (2009)

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A decision of the U.S. Department of Health and Human Services (HHS) found that the HHS Administration for Children and Families (ACF) improperly denied funds to a grantee based on data from the HHS Payment Management System. In 2008, the grantee, the Reginald S. Lourie Center for Infants and Young Children (Lourie Center), determined during a review of its financial records that it had allowable expenditures from prior budget periods for which it had not been reimbursed from federal grant funds and requested funds from ACF as reimbursement for those expenditures. The Lourie Center received requested funds in January 2008 and asked for additional funds later in 2008. At that point, ACF instructed the center to repay the funds it had received in January 2008 and rejected the request for additional funds based on information from the Payment Management System indicating that the center had withdrawn all available funds for previous budget periods. The DAB found that ACF did not show any proper basis for the rejection of the request for additional funds and overturned the rejection.

Background

Grantees receiving Early Head Start or Head Start grant funds must follow grant administration requirements found in 45 C.F.R. Part 74.² If “funds are available only for a specified period, the grantee ‘may charge to the award only allowable costs resulting from obligations incurred during the funding period’ and allowable preaward costs.”³ Funds paid to a grantee may be paid in advance of or as reimbursement for expenses already incurred.⁴ Because grantees are allowed to report expenditures on either a cash or an accrual basis, “reported expenditures do not necessarily equate with federal cash drawn down to cover those expenditures.”⁵ Grant recipients receiving grant funds electronically from HHS receive funds through the HHS Payment Management System. During reviews of financial records in 2008, the Lourie Center determined that sufficient funds to reimburse the center for Fiscal Year 2006 (FY06) and Fiscal Year 2007 (FY07) allowable Early Head Start expenditures had not been drawn down from the federal government under the center’s grants for those years.

In January 2008, the Lourie Center requested \$90,259.07, and a subsequent review of financial records during summer 2008 revealed that an additional \$149,275.50 could be drawn down to reimburse the center for additional allowable expenditures incurred during FY06 and FY07. ACF denied payment of the additional \$149,275.50 and instructed the center to repay the \$90,259.07 that was previously requested and paid in January 2008 on the basis that all funds from FY06 and FY07 had already been drawn down.

The Lourie Center appealed the denial of the additional funds requested for FY06 and FY07 and the instructions to repay the funds previously requested for FY06 in January 2008.

Payment Management System

ACF argued that the Lourie Center had already drawn down all available funds for FY06 and FY07 based on reports from the Payment Management System and its own Financial Status Reports (SF-269s). The reports from the Payment Management System indicated that all funds available for FY06 and FY07 had been drawn down. ACF asserted that the SF-269s indicated that all available federal funds had been drawn down and spent. The DAB rejected this argument on the bases that: (1) ACF's evidence did not support this conclusion; (2) the Lourie Center's analysis appropriately reconciled the information in the Payment Management System to its analysis of its financial records that indicated that additional funds should be available for draw down for FY06 and FY07; and (3) the SF-269s only indicated that money had been spent and did not indicate that federal funds were drawn down to cover those expenses.

The Lourie Center argued that it had not drawn down enough federal funds for FY06 and FY07 to fully reimburse itself for the federal share of expenses incurred. It based this assertion on an analysis conducted by its accountant that indicated that the amount of funds drawn down was less than the grant amount and the federal share of Head Start expenditures. This analysis was submitted to the DAB along with evidence of the amount of federal funds previously drawn down. The DAB accepted this argument. The Lourie Center's analyst posited that the reason for the discrepancy was that ACF's Payment Management System automatically applied any funds paid to the oldest grant that showed funds available for draw down. As a result, the Payment Management System showed that there were no funds available for FY06-FY08, but showed more available funds for FY09 (\$466,690.01) than the amount that would have been indicated if the amount of funds drawn down for FY09 were subtracted from the DAB Update total grant funds available for FY09 (\$1,307,458 - \$990,132 = \$317,326.28).

In summary, the DAB ruled that: The denials are justified only if Lourie Center has received total federal funds sufficient to cover all of its allowable and allocable expenditures for FY 06 and FY 07 for which it had disbursed funds, as well as to cover all of its disbursements for allowable costs in later years;⁶ and determined that, in this case, the Lourie Center had not received sufficient funds.

Other Arguments

ACF suggested that the Payment Management System separates current year funds from funds allotted to other program years. The DAB found that ACF presented no evidence to indicate that the Payment Management System operated in this manner and noted a suggestion from the Lourie Center's accountant that the Payment Management System appears to operate on a rolling basis. Namely, it allocates any money paid to a grantee to the oldest grant in the system with funds available. ACF also argued that there was reason to question the Lourie Center's financial analysis on the basis that ACF had designated the Lourie Center as a high-risk grantee. As evidence of this designation, ACF submitted a letter it had sent to the Lourie Center and information from a monitoring review of the Lourie Center's Early Head Start program indicating problems with the center's financial management. ACF did not indicate that it had found that the deficiencies underlying the documentation resulted in any unallowable costs being charged to federal funds or a failure to document in-kind expenditures. The DAB rejected this argument finding that: (1) ACF's designation of the Lourie Center as high-risk was based largely on "a misinterpretation of Lourie Center's request to draw down additional funds" for FY06 and FY07; and (2) that designation of the Lourie Center as a high-risk grantee on the basis of management deficiencies is not a finding that any expenditures are not allowable or that Lourie Center has drawn down funds to cover all allowable costs.

Lessons Learned

- Be aware that HHS's Payment Management System does not appear to separate available current year grant funds from prior years' funds, but instead seems to apply funds paid to the oldest grant showing available funds for draw down.
- Keep detailed records regarding any draw down of grant funds.
- Conduct routine reviews of financial statements in order to ensure that sufficient funds are drawn down to cover allowable expenditures.
- When possible, reconcile information received from the HHS Payment Management System to your own organization's financial records.

¹ Complete decision can be found at www.hhs.gov/dab/decisions/DAB2262.pdf.

² *Reginald Lourie Center for Infants & Young Children*, DAB No. 2262, at 2 (2009) (citing 45 C.F.R. § 74.1).

³ *Id.* (citing 45 C.F.R. § 74.28).

⁴ *Id.* (citing 45 C.F.R. § 74.22).

⁵ *Id.*

⁶ *Id.* at 8.