



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Customs Service

File: B-270446

Date: February 11, 1997

DIGEST

The Customs Service may use its operating appropriation to cover the cost of extending its psychological assessment and referral services to its employees' family members adversely affected by work-related incidents arising from law enforcement activities or traumatic incidents involving death or serious injury to its employees in the line of duty.

DECISION

BACKGROUND

The United States Customs Service (Customs Service) asks whether it may use its operating appropriation to pay for psychological assessment and referral services for family members of its employees under certain circumstances. For the reasons explained below, we conclude that it may.

The Customs Service Employee Assistance Program provides psychological assessment, short-term counseling and referral services to its employees for work-related or personal problems affecting employees' work performance and morale.¹ The Customs Service proposes to extend assessment and referral services, but not counselling, to family members of employees who are adversely affected by work-related incidents associated with their law enforcement activities, such as, for example, an inherently dangerous assignment. The Customs Service also propose to extend such services to family members of its employees adversely affected by traumatic incidents involving death or serious injury to Customs Service employees in the line of duty.

¹See 5 U.S.C. § 7901 which authorizes the use of appropriated funds for preventive health measures for federal employees in certain circumstance. The Custom Service proposes to provide service to employees' family members who are not covered by section 7901.

Customs Service employees perform a variety of law enforcement activities ranging from the routine to the inherently dangerous. During the course of their law enforcement duties, Customs Service employees may be subject to death threats and/or threats of violence. Apart from the stress and anxiety normally associated with law enforcement work, death threats or threats of violence directed at Customs Service employees or members of their families can have a significant impact on an employee and the performance of his or her duties and be the source of stress and anxiety for their families. To help mitigate these concerns, the Customs Service proposes to provide psychological assessment and referral services to family members. The Customs Service believes that the provision of such services would reassure employees that their families will receive necessary assistance obtaining help, thereby benefiting employee morale, recruitment, retention, and performance.

The bombing of the federal building in Oklahoma City exemplifies another situation where the Customs Service proposes to offer psychological assessment and referral services to family members of its employees. Not surprisingly, the impact of "traumatic incidents" where Customs Service employees suffer death or serious injury in the line of duty falls particularly hard not only on fellow workers, but also on their families. In the face of such tragedies, the Customs Service believes that it is important that its employees and their families feel that the Customs Service is responding to such tragedies in a humane and helpful fashion. Accordingly, the Customs Service believes that even apart from the basic humaneness of its proposal, the extension of psychological assessment and referral services to employees' family members in such a situation would rebound to its benefit through improved employee retention, performance, and recruitment.

ANALYSIS

A basic tenet of appropriation law is that appropriated funds may only be used for the purposes for which appropriated. 31 U.S.C. § 1301(a) (1994). This does not mean that an agency may incur only those expenses specified explicitly in an appropriation. To so require would be clearly impractical given the relative levels of generality that Congress uses to provide funding for the various agency programs and activities. Thus, our decisions are replete with examples of authorized expenditures that are neither specifically nor explicitly authorized in an appropriation act but which are reasonably necessary to carry out an authorized function or which materially contribute to the effective accomplishment of an authorized function. 65 Comp. Gen. 738, 740 (1986) (Refreshments may be considered a necessary expense incident to an agency's awards ceremony); B-223608, Dec. 19, 1988 (Appropriated funds may not be used to purchase ice scrapers imprinted with a safety slogan to promote agency safety programs); and 1 United States General Accounting Office Principles of Federal Appropriations Law, p. 4-14, (2d ed. 1991). The "necessary expense" doctrine that supports the

holdings in these decisions reflects a respect for an agency's legitimate exercise of discretion to determine how best to accomplish the objects of its appropriation. Although not unlimited, it is a rule of reason and of deference.

Part and parcel of any necessary expense analysis is whether the expenditure in question is a personal or official one. With respect to psychological assessments and referrals, we have generally considered such medical services as personal to the employee. Hence, absent statutory authority to the contrary, appropriated funds generally may not be used for such expenses. B-253159, November 22, 1993.

We have, however, recognized exceptions to the general rule. We have not objected to expenditures for employee medical expenses where the agency can demonstrate that the expenses in question primarily benefit the agency. For example, prior to the enactment of the preventive health statute, 5 U.S.C. § 7901, authorizing agencies to use available appropriations to establish programs to promote and maintain the physical and mental health and fitness of their employees, we held that the Army's Chemical Warfare Service may pay for periodic physical examinations to detect early signs of arsenic poisoning in its laboratory employees. 22 Comp. Gen. 32 (1942). We rationalized the expense as primarily for the benefit of the government in order to avoid work interruptions resulting from absenteeism due to illness or the inability to recruit and retain qualified personnel. *Id.* See also 41 Comp. Gen. 387 (1961); 30 Comp. Gen. 387 (1951); 26 Comp. Gen. 544 (1947); and 23 Comp. Gen. 888 (1944).

We have extended this rationale to cases where the recipient of the medical services is not a government employee. 65 Comp. Gen. 677 (1986); 29 Comp. Gen. 111 (1949); and 23 Comp. Gen. 746 (1944). In each of the cited decisions, we concluded that the government was the principal or primary beneficiary of the expenditure. We have reached the same result in cases not involving medical expenses. In 71 Comp. Gen. 9 (1991), we concluded that the Federal Aviation Administration could reimburse the travel expenses of an employee's spouse who attended State Department security training prior to a permanent duty assignment overseas. We viewed the travel and training as directly serving the government's interest. *Id.* at 11. Similarly, in 69 Comp. Gen. 38 (1989), we held that an agency could reimburse as a necessary expense of an awards ceremony the expenses of an employee's spouse to attend an awards ceremony honoring the employee. The agency's determination that the spouse's attendance at the ceremony would further the purposes of the awards program was adequate to qualify the expense as necessary under the "necessary expense" doctrine as we have developed that concept in our decisions and as Congress has incorporated it in the Government Employees' Incentive Awards Act, 5 U.S.C. § 4503 (1994).

In light of the above decisions, we believe that the Customs Service may reasonably conclude that the extension of psychological assessment and referral services to

family members of Customs Service employees in the circumstances described above will primarily benefit the Customs Service. The Customs Service has determined that its law enforcement activities and traumatic incidents involving death or serious injury to employees in the line of duty are the source of stress and anxiety to its employee's family members. The Customs Service has further concluded that if not addressed, the stress and anxiety suffered by its employees' family members negatively impacts the accomplishment of its mission through reduced job performance, reduced employee retention, and increased difficulty recruiting qualified employees. Accordingly, based on these determinations, so long as the Customs Service limits the circumstances in which it provides psychological assessment and referral services to those determined to be work-related, we would not object to the provision of these services to its employees' family members.

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