

DOCUMENT RESUME

03194 - [A2293413]

Salaries of Attendants for Handicapped Members. B-189010. August 15, 1977. 4 pp.

Decision re: National Advisory Committee on an Accessible Environment; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Architectural and Transportation Barriers Compliance Board.

Authority: Rehabilitation Act of 1973 (P.L. 93-112, title V, sec. 502; 87 Stat. 391, as amended; 29 U.S.C. 792 (Supp. IV)). Rehabilitation Act Amendments of 1974, sec. 111(n) (2) (P.L. 93-516; 88 Stat. 1621). 5 U.S.C. 7153. 5 U.S.C. 5703 (Supp. V). 29 U.S.C. 791 (Supp. III). B-187492 (1977). B-186598 (1977). H. Rept. 93-244. S. Rept. 93-1297.

Robert Johnson, Acting Executive Director of the Architectural and Transportation Barriers Compliance Board, requested an advance decision as to whether appropriated funds may be used to compensate an attendant for a member of an advisory committee to the Board. If a handicapped member of the advisory committee requires an additional attendant to attend periodic official meetings, the Government may pay the cost of attendants above that ordinarily incurred by the member at the place of residence. Such expenses are essential to accomplish the unique purpose of the advisory committee under its statutory authority which requires that a majority of its members be handicapped. (Author/SC)

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DECISION



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

FILE: B-189010

DATE: August 15, 1977

MATTER OF: National Advisory Committee on an Accessible Environment - Salaries of Attendants for Handicapped Members

DIGEST: Where handicapped member of National Advisory Committee on an Accessible Environment requires additional attendant to attend periodic official meetings, Government may pay cost of attendants above that ordinarily incurred by member at place of residence. Such expenses are essential to accomplish the unique purpose of the Advisory Committee under its statutory authority, 29 U.S.C. 792 (Supp. IV, 1974), which requires that a majority of its members be handicapped.

Mr. Robert Johnson, Acting Executive Director of the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") has requested an advance decision concerning whether appropriated funds may be used to compensate an attendant for a member of the Board's National Advisory Committee on an Accessible Environment. He also asks whether it would be proper for the Board to contract out for the services of attendants.

The Architectural and Transportation Barriers Compliance Board is a quasi-independent agency created under the Rehabilitation Act of 1973, Public Law 93-112, title V, 502, September 26, 1973, 87 Stat. 391, as amended 29 U.S.C. 792 (Supp. IV, 1974). The broad responsibilities of the Board include insuring compliance with Federal statutes regarding architectural barriers, investigating and examining alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, and determining what measures can be taken to eliminate such barriers.

It is clear from the legislative history pertaining to the establishment of the Board that the Congress intended that the Board perform an important role in the achievement of greater employment and life opportunities for the handicapped. The relevant House report states in pertinent part as follows:

"Such a unit will enhance the effectiveness of the other provisions of the bill Rehabilitation Act of

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1973⁷ because even if maximum employment opportunities for the handicapped were available, they could not be filled unless handicapped individuals found it possible to get to their jobs. * * * The Committee feels it is imperative that handicapped individuals be given the opportunity to move freely in the society into which they must integrate themselves. The Committee feels this Board can serve to accomplish this objective." H. Rep. 93-244, 93d Cong., 1st Sess., p. 23.

The Senate report on the Rehabilitation Act of 1974 states in connection with the funding of the Board that:

"* * * The Committee on Labor and Public Welfare believes strongly that the Board has the potential to become a major force for achieving the elimination of environmental barriers to handicapped individuals. * * *" S. Rep. 93-1297, 93d Cong., 2d Sess., p. 37.

Section 111(n)(2) of the Rehabilitation Act Amendments of 1974, Public Law 93-516, December 7, 1974, 88 Stat. 1621, 29 U.S.C. 792(a) (Supp. IV, 1974) directs the Board to appoint "a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions." The legislative history relating to the creation of the Consumer Advisory Panel shows that Congress required that a majority of the members be handicapped so "that an increased awareness and sensitivity to problems and needs of persons who are handicapped may be imparted to the Board." S. Rep. 93-1297, 93d Cong., 2d Sess., p. 44.

Pursuant to the statute, the Board has established the National Advisory Committee on an Accessible Environment. One of the members appointed to the Advisory Committee is a quadriplegic who requires an attendant on an around-the-clock basis due to the fact that he is substantially confined to a respirator.

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When residing at home this individual employs two professional attendants, each of whom work an 8-hour shift, and his wife attends to him for the remaining 8 hours. However, due to family obligations, his wife is unable to accompany him when he travels away from home to attend the periodic meetings of the Advisory Committee. He, therefore, must hire an additional attendant in order to attend those meetings. When attending meetings of the Advisory Committee away from home the member may be reimbursed for the travel expenses of his attendants pursuant to 5 U.S.C. 5703 (Supp. V, 1975). Matter of H.W. Shulz, B-187492, May 26, 1977 and Matter of John F. Collins, B-186598, May 26, 1977. However, unless the Board can assume the costs of hiring an additional attendant, the member will be forced to resign from the Advisory Committee as he is unable to continue to incur the additional expenses of paying for the extra attendant incident to his attending meetings of the Advisory Committee.

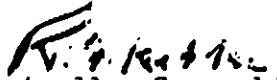
The Acting Executive Director of the Board has stated that both the Board and the other members of the Advisory Committee strongly believe that the continued service of this individual, who requires an additional attendant while attending Committee meetings, is essential to the Committee's ability to fulfill its advisory role to the Board in the manner intended by Congress. We are advised that at previous meetings of the Committee this member has made important contributions to the Committee's gaining of a fuller understanding of the unique problems which confront the physically handicapped. The Board states that it would frustrate the statutory purpose, as indicated by the language and relevant legislative history of 29 U.S.C. 792 (Supp. IV, 1974) if the Board were not able to incur those expenses of the handicapped members which are necessary to maintain an Advisory Panel that is able to properly guide the Board in carrying out its functions.

We note that the statutory requirement imposed on the Board, with regard to both the duties and the composition of the Advisory Committee is sui generis. While the Federal Government has a policy of nondiscrimination and affirmative action concerning Federal employment of the physically handicapped, as set forth in 5 U.S.C. 7153 (1970) and 29 U.S.C. 791 (Supp. III, 1973), respectively, we are not aware of any other governmental entity

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that is required by statute to hire a majority of handicapped individuals. Furthermore, the Board is the only agency, of which we are aware, where the employment of handicapped individuals is directly related to the fulfillment of the agency's basic purpose. As discussed above, Congress has charged the Board with the primary responsibility of eliminating the architectural, transportation and attitudinal barriers which confront handicapped individuals. In connection with the attempt to achieve this goal, the Congress has determined that the Board should be provided with the guidance and advice of a panel which, because it includes handicapped members, would have particular insight into the needs and problems of the physically handicapped. Accordingly, we believe that the expense of providing for the compensation of an additional attendant for a member of the Advisory Committee is essential to carrying out the statutory purpose of the Advisory Committee in its role of assisting the Board. Where the Board has determined that such expenses are essential to the proper functioning of the Advisory Committee, the Board may provide for the compensation of an attendant or attendants of a handicapped member, where such expense arises incident to attendance at Advisory Committee meetings which take place away from the locality in which the individual resides. The Board may only pay or reimburse the additional expense of attendants which arise directly from the handicapped member's attendance at meetings of the Advisory Committee and may not assume those expenses which are ordinarily incurred by the member at his place of residence.

Finally, under the circumstances described above, we have no objection to the Board's contracting for the services of attendants for members of the Advisory Committee. Such services are not normally performed by Government employees. Therefore, where it determines that it is desirable to do so, the Board may provide for attendant services through a contract. The questions presented are answered accordingly.


Deputy Comptroller General
of the United States