

Seldin



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: National Mediation Board Obligation of Amounts for
Compensation and Expenses

File: B-217475

Date: December 24, 1986

DIGEST

National Mediation Board need not obligate estimated amounts due to neutral referee for services he may perform in the future unless the referee submits the proper forms and estimates of compensation and expenses for advance approval, as required by Board's January 1985 regulations. GAO decision B-217475, May 5, 1986 clarified.

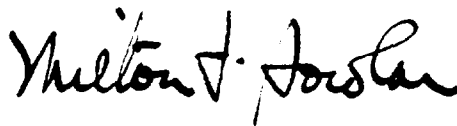
DECISION

The National Mediation Board (Board) asks GAO to concur with its view that the last sentence of our decision in B-217475, May 5, 1986, does not mean that the Board must continue to obligate estimated amounts for future services performed by Mr. Arthur Sempliner, a neutral referee, who has consistently refused to comply with the procedures established by the Board for paying its referees since November 30, 1976. The Board informs us that effective January 1, 1985, its regulations condition compensation for services and travel on submission of a proper form to the Board within specified time periods. We agree that the Board need not obligate funds on an estimated basis for Mr. Sempliner's future services if he fails to comply with its regulations.

In B-217475, May 5, 1986, we pointed out that Mr. Sempliner's failure to submit the documentation necessary to show how much compensation he was paid and the actual expenses he incurred made it impossible for the Board to determine its liability to him. Our reference to a perfected claim in the last paragraph was intended to cover the possibility of his eventually presenting the documentation necessary to allow payment to him. The necessary documentation is whatever the Board's regulations require.

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The Board's regulations require that referees like Mr. Sempliner submit a form, designated as Form No. 14, containing expected compensable services to be rendered during the ensuing month, travel plans, and estimates of total costs to the Government for transportation, per diem, etc., 30 days prior to performing compensable service and travel. The Board then sends the referee an official authorization to incur the planned expenses on the basis of the estimate. If the referee does not submit the Form No. 14 as required, his compensation and travel expense reimbursements will not be authorized and no payment will be made to him unless the Board determines that extraordinary circumstances warrant an exception. Accordingly, if Mr. Sempliner does not comply with the regulation and the Board does not determine that an exception is warranted, he is not entitled to compensation and therefore no amounts need be obligated on an estimated or any other basis. We must also point out that unless Mr. Sempliner agrees in advance to comply with all Board requirements, his certification as a neutral referee for the Board should be terminated. To continue to authorize the retention of his services by the parties without such assurance of compliance would amount to an acceptance of voluntary services in violation of the Antideficiency Act, 31 U.S.C. § 1342, since the Board would be unable to compensate him. GAO decision B-217475, May 5, 1986 is affirmed as clarified.



Acting Comptroller General
of the United States