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DECISION

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

FILE: B-205923 DATE: June 14, 1982

MATTER OF: Marilyn K. Stewart

DIGEST: The Ohio Department of Public Welfare seeks reimbursement for medical expenses incurred in a civilian medical facility by a former member of the Air Force. The former member was found to be pregnant upon final medical examination prior to her separation from the Air Force. She was admitted to the USAF Medical Center but was transferred to a civilian hospital. Air Force Regulation 168-6(C1), paragraph 17 (June 13, 1975), specifically precludes payment by the Government for maternity care rendered in civilian medical facilities. We are also unaware of any statutory authority that would enable the Air Force to provide such reimbursement. Authority to do so would require legislation.

This decision is in response to a request dated November 13, 1981, from Mr. John Cloos, Accounting and Finance Officer, United States Air Force (USAF), Bolling Air Force Base, Washington, D.C. The issue we are presented is whether the Air Force is required to reimburse the State of Ohio, Department of Public Welfare, for payment made on behalf of a former Airman for medical care rendered in a civilian hospital in connection with her pregnancy.

For the reason set forth below, reimbursement by the Air Force is not authorized.

Former Airman Marilyn K. Stewart was admitted to the USAF Medical Center Wright-Patterson on June 15, 1979, in premature maternity labor. Her pregnancy was apparently diagnosed during the final medical examination given prior to her separation from the Air Force. The medical

officer in charge of her case at the USAF Medical Center Wright-Patterson determined that the pregnancy was "high-risk" and that the USAF Medical Center was no longer capable of handling her case. She was transferred to Miami Valley Hospital in Dayton, Ohio, where she gave birth. At the civilian hospital, she incurred $7,451.84 in medical costs, and her newborn child incurred an additional $6,941.83, for a total of $14,393.67. Since former Airman Stewart was unemployed and medically indigent, the medical bills were submitted to the Ohio Department of Public Welfare under Medicaid for payment. The Ohio Department of Public Welfare made the payment and now has submitted a voucher for reimbursement from the Air Force.

Since 1951, the Military Departments have provided, by Tri-Service agreement, maternity care for members who are pregnant at the time of their separation from active duty under honorable conditions, unless their pregnancy predated their entrance on active duty. This policy was established because female members were involuntarily discharged from service and were unable to obtain health care insurance for the preexisting medical condition to offset the cost of maternity care. The Secretary of the Air Force has implemented this policy by promulgating a regulation designating such individuals eligible for maternity care on a capability/space available basis in Air Force medical facilities.

Paragraph 17, Air Force Regulation 168-6(C1) (June 13, 1975), provides as follows:

> "17. Maternity Care for Women of the Armed Forces Discharged or Relieved from Active Duty:
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> "a. Female members who are found pregnant upon final medical examination for separation from the Armed Forces, or who are discharged or relieved from extended active service duty under honorable conditions because of pregnancy, are eligible for maternity care in connection with that pregnancy, in military medical facilities.

(Care in civilian medical facilities is not authorized at Government expense.) They should apply in writing to the commander of the military medical facility nearest their residence and include a copy of orders effecting separation and estimated date of confinement.

"b. Authorized treatment includes prenatal care, hospitalization, and postnatal care for mother and infant, incident to the pregnancy, either in the hospital or as an outpatient, for not more than 6 weeks after delivery." (Emphasis added.)

Former Airman Stewart was found to be pregnant upon final medical examination in connection with her separation from the Air Force. She was admitted to the USAF Medical Center Wright-Patterson under provisions of Air Force Regulation 168-6, but later transferred to a civilian hospital when the Air Force determined that she could not be cared for adequately in their facilities. Paragraph 17 of the Regulation specifically precludes payment by the Government for care rendered in civilian medical facilities. We are also unaware of any statutory authority that would enable the Air Force to provide reimbursement for medical care in civilian facilities. Therefore, payment of the voucher is not authorized.

The Air Force has also requested our guidance in determining whether it has the authority to amend its regulations to allow payment of civilian medical maternity care in similar situations. As previously stated, we know of no authority to do so. Further, the statutory authority in Title 10 of the United States Code, pertaining to medical and dental care, is specific as to the entitlement of members, former members, and dependents. For example, 10 U.S.C. § 1074(b) (1976), provides that a former member of a uniformed service may be given medical care in any facility of the uniformed services. However, the medical care is limited to a former member who is entitled to retired or retainer pay, or its equivalent, and is subject to the availability of space and facilities

and the capabilities of the medical and dental staff. Thus, in our opinion, it would require legislation to authorize the Air Force to provide for the payment or reimbursement of medical maternity care in civilian facilities for former members of the Armed Forces.

Milton J. Socolar

Acting Comptroller General
of the United States