

DATE: 03-11-91

CITATION: VAOPGCPREC 14-91
Vet. Aff. Op. Gen. Couns. Prec. 14-91

TEXT:

SUBJECT: Transportation of Volunteers.

(This opinion, previously issued as Opinion of the General Counsel 4-65, dated October 13, 1965, is reissued as a Precedent Opinion pursuant to 38 C.F.R. §§ 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulator provisions.)

To: Chief Medical Director

1. Reference is made to your memorandum of August 26, 1965, in which you requested advice as to whether you may expend appropriated medical care of General Post funds to provide necessary transportation for volunteers in Government vehicles (or in commercial vehicles by contractual agreement if Government vehicles are unavailable), or to provide such volunteers with bus tickets, tokens, cash or transportation expenses when such is necessary. (It is assumed for the purposes of this opinion that your request pertains solely to local transportation.)

2. As you pointed out in your submission, this office informed your predecessor on May 14, 1957, that there was no legal objection to the pickup and discharge of VA volunteer workers by VA buses at intermediate points along the regular bus route, if the transportation of the worker is furnished in lieu of compensation, pursuant to contract. This opinion was based upon the authority of the Administrator, contained in section 1500, Public Law 346, 78th Congress (now 38 U.S.C. § 213), to enter into agreements for such necessary services as he may deem practicable. (VA appropriations have also been determined to be available (1) to furnish meals without charge to volunteer workers if it was administratively determined that the furnishing thereof was in the interest of the Government (Comp Gen B-145430, May 9, 1961), and (2) to purchase emblems or insignia to be awarded to volunteer workers in recognition of service, if it was determined that such awards would be an inducement to render such service (Comp Gen B-81407, January 26, 1961).)

3. We believe this authority of the Administrator (38 U.S.C. § 213) is sufficiently broad to authorize an extension of the present VA transportation policy with respect to volunteers (M-2, Part XVII, chapter 4, paragraph 4.03), and to authorize the use of appropriated funds to furnish necessary transportation, in lieu of compensation, to those volunteers whose presence at the VA

installations is determined to be "necessary for a complete medical and hospital service" (38 U.S.C. § 4101). Such "necessary" transportation can be furnished by means of Government transportation facilities or by means of commercial transportation (obtained by either a direct contractual arrangement or by an indirect arrangement, utilizing tickets, tokens or cash provided by way of reimbursement).

4. Although the language of 5 U.S.C. § 78(c) prohibits the expenditure of appropriated funds for the utilization of Government-owned vehicles not used exclusively for "official purposes," and "official purposes" cannot involve the transportation of officers and employees between their domiciles and places of employment, we do not believe that this provision of law creates a bar to the proposed transportation activity. The term "official purposes" includes any travel necessary to perform official functions, and the use of Government-owned equipment for such purposes is essentially a matter for administrative determination (memorandum to Administrator dated August 11, 1953, cited in my opinion to you dated November 30, 1964). Moreover, although volunteer workers have been considered to be employees for various purposes, they cannot be considered to be regular salaried employees who have the duty and obligation to place themselves at their regular places of employment and return to their own homes at their own expense (Comp Gen B-117159, October 20, 1953). Accordingly, they would not, in our opinion, be included within the class of "employees" to which the prohibition of 5 U.S.C. § 78(c) is applicable.

HELD:

5. In view of the authority to use appropriated funds for the purposes indicated above, it would appear unnecessary at this time to consider the question of expending General Post funds for the same purposes. However, if for some reason the use of appropriated funds for this purpose is not feasible, and the use of General Post funds is desired, we will be happy to again consider this question in the context of a General Post fund expenditure.

VETERANS ADMINISTRATION GENERAL COUNSEL

Vet. Aff. Op. Gen. Couns. Prec. 14-91