



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

August 29, 1975

The Honorable Raymond Vowell  
Commissioner, Department  
of Public Welfare  
John H. Reagan Building  
Austin, Texas 78701

Opinion No. H- 679

Re: Ability of Department of  
Public Welfare to transfer  
funds between programs.

Dear Commissioner Vowell:

You have asked if the Department of Public Welfare may transfer items of appropriation between programs to insure that adequate funds are available for medical assistance programs. You indicate that the question arises because of the Legislature's omission of a rider which has previously appeared in the Department's appropriation. See Acts 1973, 63rd Leg., ch. 659, p. 1786 at 1862 (rider 21 to the Department of Public Welfare appropriation).

Article 3, section 51-a of the Texas Constitution provides in part:

The Legislature shall have authority to enact appropriate legislation which will enable the State of Texas to cooperate with the Government of the United States in providing assistance to and/or medical care on behalf of needy persons, in providing rehabilitation and any other services included in the federal laws making matching funds available to help such families and individuals attain or retain capability for independence or self-care, to accept and expend funds from the Government of the United States for such purposes in accordance with the laws of the United States as they now are or as they may hereafter be amended, and to make appropriations out of state funds for such purposes; . . .

Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

Pursuant to this constitutional authorization the Legislature has enacted several statutes authorizing the Department to transfer appropriated funds between programs. Article 695c, section 4(12), V. T. C. S., provides in part:

Notwithstanding any other provisions contained in the law, the State Department of Public Welfare is authorized and empowered, at such times as may be necessary in order that Federal matching money will be available for public welfare programs administered by the Department for and/or on behalf of needy persons, and at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope of the public welfare programs and the services provided in relation to such programs to and on behalf of clients and related groups so as to include, in whole or in part, the entire range of public welfare assistance and/or services designed to help families and individuals attain or retain capability for independence or self-care and for such rehabilitation and other services as may be prescribed or authorized under Federal laws and rules and regulations, as they now are or as they may hereafter be amended.

. . .

The State Department of Public Welfare is authorized to accept, expend, and transfer any and all Federal and State funds appropriated for such purposes. The State Department of Public Welfare is authorized to accept, expend and transfer funds received from a county, municipality, or any public or private agency or from any other source; and such funds shall be deposited with the State Treasury, subject to withdrawal upon order of the Commissioner of Public Welfare in accordance with rules and regulations adopted by the Department and as authorized herein.

Article 695c, section 27, V. T. C. S., provides in part:

(1) . . .

The State Comptroller, after appropriate allocations, transfers, and credits to and from the various funds involved, is hereby authorized to transfer funds appropriated for the operation of the Department into the 'Department of Public Welfare Administration Operating Fund' and/or the 'Department of Public Welfare Assistance Operating Fund' and all other current revenues (including but not limited to grants, earnings, allotments, refunds and reimbursements) and balances on hand, such amounts as are designated and authorized by the Department of Public Welfare. The State Comptroller shall transfer between the 'Department of Public Welfare Administration Operating Fund' and the 'Department of Public Welfare Assistance Operating Fund' such amounts as are designated and authorized by the Department of Public Welfare.

. . .

(2) Should the State Department of Public Welfare determine that a transfer among appropriated State funds is needed to match Federal Medical Assistance funds then, upon written authorization of the State Department of Public Welfare, the State Comptroller of Public Accounts is hereby authorized to transfer moneys allocated and appropriated for

payments for Old Age Assistance, Blind Assistance, Children's Assistance, and/or Disabled Assistance out of the respective special assistance funds into the 'Medical Assistance Fund,' and the State Department is authorized to pay Medical Assistance out of said funds so transferred and appropriated so as to provide Assistance and Medical Assistance to the greatest extent possible within Federal and State Laws, and within the limitations of the Texas Constitution and within the limits of total appropriated funds.

. . .

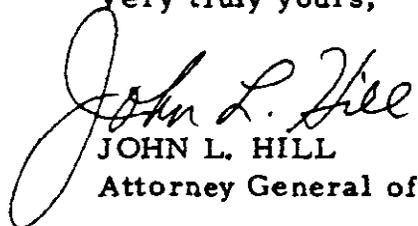
Medical assistance payments are the subject of federal matching funds. See e. g., 42 U. S. C. §§ 1396b and 1396d(b).

We do not believe that the 1975 Appropriations Bill has the effect of altering the authority given the Department to transfer funds by the statutes set out above, since it is well settled that a general appropriations act cannot amend general law, e. g., Tex. Const., art. 3, § 35; Moore v. Sheppard, 192 S. W. 2d 559 (Tex. Sup. 1946); Linden v. Finley, 49 S. W. 578 (Tex. Sup. 1899); Attorney General Opinion V-1254 (1951). Accordingly, it is our opinion that the Department of Public Welfare may transfer appropriated funds among programs as provided by these statutes.

#### S U M M A R Y

The Department of Public Welfare may transfer appropriated funds among programs as provided by article 695c, sections 4(12) and 27.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
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DAVID M. KENDALL, First Assistant

  
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C. ROBERT HEATH, Chairman  
Opinion Committee