



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

March 22, 1977

The Honorable John Wilson  
Chairman  
House Committee on Health  
and Welfare  
P. O. Box 2910  
Austin, Texas 78769

Opinion No. H-962

Re: Whether the State may  
use non-matched funds to  
increase AFDC benefits  
when the result is more  
economical than total use  
of federally matched funds.

Dear Chairman Wilson:

You have requested our opinion regarding whether the State may, under article 3, section 51-a of the Texas Constitution, claim federal matching funds under the federal statutory provisions most favorable to the State when the amount of the average monthly grant under the Aid to Families with Dependent Children program is increased above \$32.00 per recipient.

Pursuant to its responsibility under article 695c, V.T.C.S., for administering programs for needy and dependent children, the Department of Public Welfare is presently accepting federal matching funds for AFDC programs under the formula specified in Title IV-A of the Social Security Act, 42 U.S.C. § 603. The Title IV-A matching formula provides for federal financial participation in AFDC grants and administrative costs, with the limitation that the federal share of grant costs cannot exceed the amount available when the average monthly grant is \$32.00 per recipient. Under this formula, the federal government contributes an average of \$22.88 per recipient at the level of \$32.00 and at all higher levels.

Under the other available matching formula, Title XIX of the Social Security Act, 42 U.S.C. § 1318, the percentage contributed by the federal government is somewhat less, but

it may be claimed on all amounts paid, without regard to any fixed maximum. The Title IV-A formula would furnish a larger federal percentage contribution for an average monthly grant up to \$37.72. Above this level, the Title XIX formula would provide the greater federal contribution. Between \$32.00 and \$37.72, although the Title IV-A formula would be more economically beneficial to the State, the federal contribution would not increase, so that, for every dollar increase in State funding, no corresponding federal increase would result. You ask whether such an arrangement would violate the provisions of article 3, section 51-a of the Texas Constitution.

Article 3, section 51-a(4) provides, in pertinent 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 that the maximum amount paid out of state funds to or on behalf of any needy person shall not exceed the amount that is matchable out of federal funds. . . .

(Emphasis added).

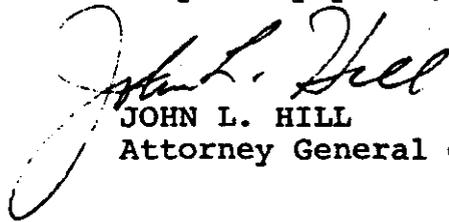
In our opinion, this proviso does not require that every particular State dollar expended be matched, but merely limits total State expenditures to the amount that is matchable out of federal funds. In Attorney General Opinion H-437 (1974), we indicated that the Legislature had the "authority to enact legislation authorizing a matching formula

of 50% state dollars with 50% federal dollars for grants for and to needy families with dependent children." You state that, under either the Title IV-A or the Title XIX matching formula, the State's contribution for an average monthly grant between \$32.00 and \$37.72 would be less than 50 percent of the total. As a result, it is our opinion that the use of either formula would not contravene the provisions of article 3, section 51-a.

S U M M A R Y

Pursuant to article 3, section 51-a of the Texas Constitution, the State may claim matching federal funds under either Title IV-A or Title XIX of the Social Security Act when the amount of the average monthly grant under the Aid to Families with Dependent Children program is greater than \$32.00 but less than \$37.72 per recipient.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
\_\_\_\_\_  
DAVID M. KENDALL, First Assistant  
\_\_\_\_\_  
C. ROBERT HEATH, Chairman  
Opinion Committee