

Office of Fiscal and Monitoring Services

To: All CDJFS, CSEA, and PCSA Directors
All CDJFS, CSEA, and PCSA Fiscal Contacts

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Subject: County Monitoring Advisory Bulletin 2009-001: Interfund Cash Transactions

Monitoring reviews of county family services agencies have resulted in the identification of a number of interfund cash transactions which may be in conflict with the requirements of Ohio law. Where interfund transactions are contrary to statute, the effects can be very serious, resulting in significant monetary findings in an OMB Circular A-133 audit of the county. The purpose of this bulletin is to clarify for county family services agency management and staff the circumstances under which interfund cash transactions are allowed.

This material is based upon opinions of the Attorney General, materials developed by the Ohio Department of Taxation, and materials developed by the Auditor of State (AOS) for use by AOS staff and independent public accountants performing audits of local governments on behalf of the AOS. For further information, please refer to the 2009 Ohio Compliance Supplement, published by the AOS and available online at:

http://www.auditor.state.oh.us/LGS/Publications/LocalGovernmentManualsHandbooks/ohio_compliance_supplement_manual/2009/OCSDoc.htm.

Chapter 1, page 81 of the Supplement includes information on interfund transfers; Chapter 1, page 86 of the Supplement includes information on interfund advances; and Appendix A, page 98, includes detailed discussion of the two concepts.

General Requirements

Governmental “funds” are independent fiscal and accounting entities with self-balancing sets of accounts recording cash or other resources, together with all related liabilities, obligations, reserves, and fund balances which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special rules, restrictions, or limitations. Section 131.01 (O), Revised Code.

County governments in Ohio generally operate on a “cash basis,” recording cash receipts and disbursements, and showing a cash balance. Five statutory funds are generally in use with regard to county family services agencies. These are:

- The “Public Assistance (PA) Fund,” established by Section 5101.161, Revised Code. This Section requires that a county “deposit all funds appropriated by a board of county commissioners and received from [ODJFS] under this section in a special fund in the county treasury known as the public assistance fund.” All payments for public assistance expenditures must be made from the public assistance fund;
- The “Children Services Fund,” established by Section 5101.161, Revised Code. This Section requires that “each county . . . deposit all funds its public children services agency receives from appropriations made by the board of county commissioners or any other source for the purpose of providing children services into a special fund in the county treasury known as the children services fund. A county shall use money in the fund only for the purposes of meeting the expenses of providing children services”;
- The Child Support Enforcement Agency (CSEA) Administrative Fund, required by OAC Section 5101:9-6-83, which is used to account for receipts and disbursements for the operation of the child support function;
- The Workforce Development Fund, established by Section 6301.03, Revised Code, into which all funds received under that section are to be deposited and from which all expenditures for activities funded under that section must be made; and
- The county General Fund, which may be the source of appropriations by the board of county commissioners for the support of county agencies.

There are a number of circumstances under which money may be moved in and out of special revenue funds such as the PA Fund, the Children Services Fund, the CSEA Administrative Fund and the Workforce Development Fund. These circumstances fall into the following general classifications:

- Interfund cash advances and repayments;
- Movement of cash by operation of law;
- Correction of errors;
- Payments pursuant to valid legal agreement; and
- Transfers, which involve the permanent movement of cash between funds.

The use of correct terminology is critical in addressing the allowability of interfund cash transactions. Common usage is often incorrect and may inadvertently lead to illegal activity. For example, county agency management in combined agencies frequently refer to the “shared cost transfer.” However, the transactions in question, authorized by OAC Section 5101:9-1-05, are not legal transfers, but are reimbursements of costs incurred by the PA Fund on behalf of other funds and are movements of cash by operation of law.

Interfund Cash Advances – The Attorney General has indicated, in 1964 OAG No. 1209, that under certain circumstances one fund can advance or “loan” cash to another fund. An interfund cash advance represents the temporary movement of cash from one fund to another, with the intent that it be repaid. This may occur only when the allowable legal uses of cash for the “debtor” fund advancing the cash are consistent with those of the “creditor” fund receiving the cash advance.

For example, a county’s General Fund might loan cash to any number of funds, as there are few restrictions on General Fund money. However, monies in the special revenue funds administered by the county agencies, including the PA Fund, the Children Services Fund, the CSEA Administrative Fund, and the Workforce Development Fund, are limited in their uses to the purposes for which the funds were established, and may not be advanced to other funds.¹ Thus, a CSEA Administrative Fund may not advance cash to a Children Services Fund.

Levy monies have restrictive language limiting their use to certain types of expenditures. Revenue from levies cannot be loaned to other funds where it will not be subject to the same restrictions. Similarly, restricted monies from federal or state grants may be used only for their prescribed purposes and may not be advanced to other funds where they might be used for other purposes. The Auditor of State has taken the position for audit purposes that allocation of unrestricted money into a restricted fund subjects the heretofore unrestricted money to the restrictions of that fund. Thus, if county general fund money is transferred to a restricted fund, such as the Children Services Fund, it takes on and is subject to the restriction of Section 5101.144, Revised Code, limiting its use to child welfare purposes.

Where an allowable interfund advance has been made, the “debtor” fund may repay the obligation created by the advance by means of a reimbursement to the “creditor” fund. Interfund cash advances, by their nature, are only allowable for temporary movements of cash between funds. Any permanent movement of cash between funds, other than by operation of law, for correction of errors, for payment for goods or services, or otherwise to satisfy a binding legal obligation, must be effected as a legal transfer pursuant to Sections 5705.14 through 5705.16, Revised Code.

Movement of cash by operation of law – Under some circumstances interfund movements of cash may be made by operation of law. Other than the shared cost “transfer” noted above, these circumstances are not generally applicable to movements of cash between the special revenue funds administered by county family services agencies. Another relevant example would include a movement of cash between funds to comply with a court-ordered settlement agreement.

Correction of errors – Interfund movements of cash may occur as a result of the need to correct an error. For example, if Children Services Fund money were to be erroneously moved to the

¹ Notwithstanding this general limitation, please note that, as indicated in the discussion of the shared cost “transfer” on page 2, in a combined agency certain costs are **required** to be paid initially from the PA Fund and subsequently reimbursed by the benefiting fund, such as the Children Services Fund or the CSEA Administrative Fund. Such payments by the PA Fund are **not** prohibited interfund cash advances, and the repayments, while colloquially referred to as a “transfer,” are actually **movements of cash by operation of law**.

PA Fund, the repayment by the PA Fund to the Children Services Fund would be the correction of an error, rather than a transfer of funds.

Payments pursuant to valid legal agreement – An obligation for the payment of cash may be created by a valid legal agreement between two parties. For example, if a CDJFS were to enter into a subgrant agreement to award TANF monies to the PCSA, proper expenditure and invoicing by the PCSA to the CDJFS would create a valid basis for payment by the CDJFS to the PCSA. This is not legally a transfer, but a reimbursement pursuant to the subgrant agreement. Similarly, interfund payments pursuant to legal agreements for the procurement of goods and services are not legal transfers.

Transfers – Transfers represent permanent movements of cash between funds other than repayments of advances, payments by operation of law, correction of errors, or payments pursuant to valid legal agreements. They are discretionary permanent movements of cash between funds and, unless a specific statutory authorization exists, may be made only as provided in Section 5705.14, 5705.15, and 5705.16, Revised Code.

Section 5705.14, Revised Code, authorizes limited types of interfund transfers with the authorization of the board of county commissioners. The majority of the interfund transfers authorized by this section do not involve funds administered by county family services agencies. The only interfund transfers under Section 5705.14, Revised Code, which would routinely involve funds of county family services agencies are those under subsection (E), which authorizes transfers from the general fund to any other fund of the county. For example, if a board of county commissioners determined that a transfer of money from the county's General Fund to the Children Services Fund was necessary to supplement the Children Services Fund's revenues, the board could authorize it by a two-thirds vote under Section 5705.14 (E) of the Ohio Revised Code.

There are significant restrictions imposed upon subdivisions in the transfer of monies. Those interfund transfers which are addressed by Section 5705.14, Revised Code, may be made only under that statute. If a proposed transfer is addressed by Section 5705.14, Revised Code, and the requirements of that section cannot be met, the transfer cannot be made. Where a transfer addressed by Section 5705.14, Revised Code, cannot be made, the subdivision may not resort to Sections 5705.15 and 5705.16, Revised Code, to make the transfer.

This restriction is particularly significant to county family services agencies which have a levy in place. Section 5705.14 (D), Revised Code, authorizes the transfer of unexpended balances in special levy funds created under Section 5705.09 (D), Revised Code. However, such a transfer may be made under this section only "after the termination of the activity, service, or other undertaking for which such special fund existed, [and] only after the payment of all obligations incurred and payable from such special fund." As it appears unlikely that public assistance or child welfare activities will cease, transfers of the proceeds of such levies do not appear to be possible.

Where a proposed transfer is not addressed by Section 5705.14, Revised Code, it may be made only pursuant to Sections 5705.15 and 5705.16, Revised Code, if at all. Any interfund transfers under these two sections require:

- A resolution of the board of county commissioners, by majority vote of all members, declaring the necessity for the transfer of funds;
- Approval by the State Tax Commissioner to file a petition in the court of common pleas requesting authority to make the desired transfer. Before approving a transfer request, the Tax Commissioner must determine whether the proposed transfer is prohibited by Section 5705.15, Revised Code, or by other statutory or constitutional provisions;
- After the Tax Commissioner issues a journal entry approving a transfer request, the board of county commissioners may file the necessary petition with the court of common pleas. This petition must set forth the name and amount of the fund, the fund to which the money is desired to be transferred, a copy of the commissioners' resolution with a full statement of the proceedings pertaining to its passage, and the reason or necessity for the transfer;
- Notice of the filing of the petition with the court and of the time when it will be heard must be given by one publication in two newspapers having a general circulation in the territory to be affected by such transfer of funds, preference being given to newspapers published within the territory. If there are no such newspapers, the notice must be posted in ten conspicuous places within the territory for the period of four weeks;
- The petition may be heard at the time stated in the notice or as determined by the court. Anyone who objects to the petition must file his objections on or before the time fixed in the notice for hearing, and he is entitled to be heard; and
- If, at the hearing, the court determines that the notice has been given as required, that the petition states sufficient facts, that there are good reasons, or that a necessity exists, for the transfer, and that no injury will result, it may grant the petition and order the petitioners to make the transfer.

For example, if the board of county commissioners determined that a transfer of money from the Children Services Fund to the PA Fund was necessary to supplement the PA Fund's revenues, this would require approval of a majority of the board of county commissioners, the state tax commissioner and the county court of common pleas. However, the board would need to demonstrate that the monies to be transferred do not include any legally restricted monies within the Children Services Fund, such as federal or state grant monies or the proceeds of a special levy.

Status of Federal Reimbursements for Purposes of Interfund Transfers

It appears to be a common belief on the part of county agency management that the proceeds of federal reimbursement of allowable costs claimed to federal programs are unrestricted local monies. However, this is often not the case.

The proceeds of federal reimbursements take on the character of the monies expended as the basis for the underlying claim for reimbursement. If the monies expended as the basis of a claim to federal programs are unrestricted county General Fund monies, then the monies received in federal reimbursement of the claims are unrestricted county monies and may be used for any lawful purpose for which General Fund monies may be used, subject only to the general requirements of law, such as the budgetary and appropriation requirements of Chapter 5705, Revised Code.

If, however, monies expended as the basis of a claim to federal programs are restricted in use, then the monies received in the federal reimbursement are similarly restricted. Thus, where an expenditure of levy proceeds by a county agency is the basis of a claim for federal reimbursement, the proceeds of the reimbursement are subject to the legal restrictions applicable to levy proceeds.

For approval of the state tax commissioner, it is our understanding that the county must provide suitable evidence that the cash to be transferred is unrestricted local monies, as the transfer of restricted monies, such as special levy proceeds or proceeds of restricted federal or state grants generally cannot be approved. For this purpose, cash received as a result of federal reimbursement of the expenditure of special levy cash or of restricted federal or state cash cannot be considered unrestricted local monies. Only General Fund cash transferred to the fund and cash received from federal reimbursement of identified expenditures of General Fund cash is potentially available for transfer. If the county agency cannot demonstrate that the cash to be transferred is from such an unrestricted source, the transfer will likely not be approved.

Status of Special Revenue Funds in Combined Agencies

It has been suggested that the limitations on interfund transfers discussed above are not applicable where the funds in question are administered by combined county family services agencies. For example, it has been suggested that in a CDJFS/PCSA or in a CDJFS/CSEA/PCSA, a proposed transfer of monies in the Children Services Fund to the PA Fund would not require the approval of the Tax Commissioner or of the Common Pleas Court, and the evidence discussed above, that the monies to be transferred are in fact unrestricted local monies or federal or state reimbursement of unrestricted local monies, is not required to be presented.

This is incorrect. The limitations on interfund transfers are not affected by whether the funds in question are administered by independent or combined agencies. They are independent fiscal and accounting entities and the statutory requirements must be satisfied in any case.

Decision Process on Interfund Cash Transactions

Counties must document the nature and basis of interfund cash transactions to assure compliance with legal requirements. If an interfund cash transaction is contemplated, agency management should consider the following issues:

1. Is this a temporary or permanent movement of cash between funds? If it is a temporary movement, it is presumably an interfund cash advance. If so, agency management needs to determine whether the proposed interfund cash advance is allowable within the guidelines of 1964 OAG No. 1209. The primary issue is whether the proposed use of the cash within the “debtor” fund is allowable as to cash within the “creditor” fund. If it is not, an interfund cash advance may not be made.

2. Is this a permanent movement of cash between funds? If so, agency management needs to determine whether the cash transaction is allowable as any of the following:

- A movement of cash by operation of law, such as the payment of the disbursing fund’s shared costs obligation in a combined agency;
- A correction of an error, such as the payment of monies received into the wrong fund upon receipt, requiring correction, or payment of monies from the wrong fund, also requiring correction; or
- A payment to satisfy a legal obligation created by a valid legal agreement, such as a contract payment to a vendor, or payment of monies to a subgrantee pursuant to a subgrant agreement.

3. If the proposed interfund cash transaction involves the permanent movement of cash between funds, but is not by operation of law, a correction of an error, or to satisfy a legal obligation created by a binding legal agreement, it is a “transfer” within the meaning of Sections 5705.14 to 5705.16, Revised Code, and requires compliance with those statutory provisions.

Consulting Services Requests:

The BMCS has established a GroupWise e-mail account for questions related to technical issues. Questions may be submitted through the GroupWise system to BMCS_INQUIRIES or through the Internet to BMCS_INQUIRIES@jfs.ohio.gov.

The e-mail account will be checked frequently for new inquiries. Within the limits of our resources, we will respond to you as quickly as possible. Any inquiries which are appropriate to another ODJFS Office or Bureau will be forwarded to that department.