

DATE: 07-18-90

CITATION: VAOPGCPREC 47-90
Vet. Aff. Op. Gen. Couns. Prec. 47-90

TEXT:

Subject: Utilization of a Work-study Veteran-student to
Provide Transportation for a Service-disabled Veteran

(This opinion, previously issued as General Counsel Opinion 12-76, dated March 23, 1976, 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 regulatory provisions.)

QUESTION PRESENTED:

May a work-study veteran-student be utilized to provide transportation to school for a service-disabled veteran training under the provisions of chapter 31 of title 38, United States Code?

COMMENTS:

Section 1685 of title 38, which authorizes utilization of work- study students to perform services for the Veterans Administration, reads, in pertinent part, as follows:

"§ 1685. Veteran-student services

"(a) Veteran-students utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as 'work-study allowance'). Such work-study allowance shall be paid ... in return for such veteran-student's agreement to perform services ... required in connection with (1) the outreach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate ..."

We believe it is clear that the provision of transportation, as is proposed here, would not fall within categories (1), (2) or (3) of 1685(a) since this does not involve outreach, it is not paperwork, and it does not fall within medical care and treatment authorized under chapter 17 of title 38. If it were permissible,

therefore, it would have to be authorized under category (4) of this section of the law.

We have reviewed the legislative history of the work-study law and are unable to find any guidelines which would provide us with the intention of the Congress in enacting this particular authority. We are of the view that category (4), which states "any other activity of the Veterans' Administration" must be read in context with authority provided elsewhere in title 38 to provide services for veterans. The only comparable authority we have found is in section 111 of title 38 which relates to the provision of travel expenses and allowances (which includes vocational rehabilitation) for veterans. This section, however, restricts the payment primarily to mileage, actual expenses, and the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant. We are, therefore, unable to relate the authorizing of the services of a work-study student under the circumstances presented as being "an activity of the Veterans' Administration."

HELD:

There is no legal authority under 38 U.S.C. § 1685 m for the utilization of a work-study veteran-student to provide transportation to school for a service-disabled veteran, training under the vocational rehabilitation program.

VETERANS ADMINISTRATION GENERAL COUNSEL
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