

January 14, 1976

OPINION LETTER NO. 10
Answer by Letter - C. A. Blackmar

Mr. William J. Raftery, Director
Division of Accounting
Room 125, Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Raftery:

This opinion letter is in response to your request on the following question:

"Are the Area Agencies on Aging (AAA), established pursuant to the Older Americans Act of 1965, instrumentalities of the State for purposes of Section 218 of the Social Security Act, 42 U.S.C.A. §418?"

In the request for the opinion you state that the opinion is sought in order to assure that the State of Missouri meets the requirements of the contract between the state and the Secretary of Health, Education and Welfare with respect to providing Social Security coverage for state employees. That agreement was entered into pursuant to the authority contained in Section 105.440, RSMo.

In order to determine whether or not the state is obligated to provide Social Security coverage for employees of Area Agencies on Aging, it must be determined whether those entities are instrumentalities of the State of Missouri. We are advised that the Area Agencies on Aging are organized as not-for-profit corporations pursuant to Chapter 355, RSMo. The indispensable characteristic of an instrumentality of the State of Missouri is that it be created by the state pursuant to law. Therefore,

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we do not believe that such entities are "instrumentalities" as that term is used in Sections 105.300, RSMo et seq., and the state is not obligated, and indeed not permitted, to contract with the federal government for Social Security coverage for employees of such entities.

Very truly yours,

JOHN C. DANFORTH
Attorney General