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OPINION LETTER NO. 63-86

John A. Pelzer
Commissioner of Administration
Office of Administration
Post Office Box 809
Jefferson City, Missouri 65102



Dear Mr. Pelzer:

This letter is in response to your question asking:

Is the Marshall Region Council on Developmental Disabilities an Instrumentality as defined in Sections 105.300.7 and 105.350.1, RSMo. 1978, for the purpose of extending benefits of Title II of the Social Security Act (42 U.S.C.A., Section 401 et seq.)?

It is our understanding that the Marshall Regional Council on Developmental Disabilities is a Missouri not-for-profit corporation generally operating under Chapter 355, RSMo. Apparently, this corporation was organized in 1972. In 1980, after the adoption of what is now Sections 633.040 to 633.050, RSMo Supp. 1984, the Missouri Department of Mental Health designated the Marshall Region Council on Developmental Disabilities as a regional council under these statutes. Subsection 2 of Section 633.040, RSMo Supp. 1984, recognizes the designation of not-for-profit corporations as regional councils by specifying that members of boards of directors of not-for-profit corporations are not subject to certain membership requirements otherwise imposed upon regional councils.

In Opinion Letter No. 10, Raftery, 1976, copy enclosed, this office concluded that area agencies on aging, which are organized as not-for-profit corporations under Chapter 355,

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RSMo, are not instrumentalities of the state as that term is used in Chapter 105, RSMo. We see no distinguishable difference between the organization of the area agencies on aging and the Marshall Region Council on Developmental Disabilities as far as social security reporting provisions are concerned. Accordingly, we conclude that the Marshall Region Council on Developmental Disabilities is not an agency of the state for purposes of Sections 105.300.7 and 105.350.1, RSMo 1978.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General