

Executive Branch Ethics Commission  
**ADVISORY OPINION 07-3**  
February 23, 2007

**RE:** May program specialists have as tenants individuals who receive family support benefits?

**DECISION:** No.

This opinion is issued in response to your December 8, 2006 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 23, 2007 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows. On October 16, 2006, the Cabinet for Health and Family Services (the "Cabinet") hired an employee as a public assistance program specialist ("program specialist") for a regional office of the Department for Community Based Services ("DCBS"). The class specifications for this position state that the program specialist is to "provide advanced and expert knowledge of program specialties or corrective action activities for public assistance programs such as Aid to Families with Dependent Children ("AFDC"), Medical Assistance, and Food Stamp Programs in a defined geographical region..."

Accordingly, the program specialist oversees administration for the Food Stamp Program and serves as a back-up administrator for the Kentucky Transitional Assistance Program ("KTAP"), the Kentucky Works Program ("KWP"), and Medicaid eligibility determinations. The program specialist interprets policy and advises staff on working cases in these programs, completes case reviews, works cases, resolves referrals from the fraud hot-line, completes management evaluations, reviews corrective actions and resolves disqualifications (when a client is disqualified from program participation for a period of time and subsequently wants to return to program participation). Further, the program specialist also meets with clients to resolve client complaints, has the authority to override and change any action other employees have taken, and works closely with other DCBS programs regarding kinship care benefits and preventive assistance funds.

In addition to his state position, the program specialist owns rental property, and rents to families who receive family support benefits from DCBS. One family also has an active food stamp case, the file of which includes a written statement from the program specialist (which was submitted three months prior to his employment with DCBS), as the landlord, verifying the amount of rent paid to him. Prior to his employment, the program specialist received Preventive

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Assistance payments, rental funds paid to a landlord by DCBS when a tenant cannot pay the rent. These payments are made to prevent a tenant from being evicted. It is foreseeable that the program specialist will receive additional Preventive Assistance payments for his tenants in the future.

The program specialist is expected to become knowledgeable in family support policies, which will give him an advantage regarding his rental properties. For example, a recent policy of the Weatherization Program, a program administered by community action agencies utilizing Cabinet funds to help low income persons repair their dwellings in order to have a safer and healthier living environment or to allow tenants to fix substandard property they rent, also allowed landlords to obtain weatherization improvements for rental properties. When the program specialist became aware of this DCBS policy, he contacted his supervisor and asked if he could receive such assistance to improve his rental property.

The Cabinet wants to assure that its actions and those of its employees are in compliance with the Executive Branch Code of Ethics. Therefore, you request an opinion on whether it is a conflict of interest for a family support administrative employee to rent property to persons who received family support benefits.

KRS 11A.020(1)(a), (c) and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - ...
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

In previously issued Advisory Opinion 94-44 (a copy of which is enclosed), the Commission advised that a Department of Social Services employee who was responsible for determining eligibility of applicants to receive entitlement benefits for payments to day-care centers and also was responsible for investigating child abuse allegations at day-care centers could not enroll children, in a day-care center he owned, who were recipients of child care benefits from the agency for which the employee worked. In Advisory Opinion 95-34 (a copy of which is enclosed), the Commission addressed the same situation, however the employee was being considered for a new position in which he would not have any responsibilities concerning day-care centers or entitlement funds for child care benefits. The Commission advised in

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that situation that the employee could enroll children in his day-care center provided neither he, nor his co-workers, have any responsibility for the investigation of child care centers of approval or applicants for child care benefits, and provided the children are not clients whom he serves as a child protective services worker.

Further in Advisory Opinion 95-27 (a copy of which is enclosed), the Commission concluded that the spouse of a casework specialist, employed by the Department of Social Insurance, who was responsible for accepting, processing and determining eligibility of applicants for AFDC, Food Stamps, and Medical assistance benefits could accept food stamps from clients of the Department of Social Services, but the employee should not discuss the spouse's business during state time and to avoid any appearance of a conflict should abstain from processing applications for food stamp clients who the employee knows patronize the spouse's store on a regular basis.

Accordingly, the Commission advises that the program specialist, who appears to have responsibilities for or may advise staff that have responsibilities for family support benefits, should not have as tenants individuals who receive benefits from the regional office for which he works. If the employee was to have such tenants, any action taken in matters of family support benefits by him could be viewed as an attempt to use his influence in a matter that is a substantial conflict between his personal interest and his duties in the public interest. Further, the program specialist should not refer any clients, with whom he has contact as part of his official duty, to his rental properties. (See Advisory Opinion 98-35.) Such use of his official position may be in violation of the provisions in KRS 11A.020(1) provided above.

The program specialist is not prohibited from using policy information he obtains through his position to his benefit provided such information is also available to the general public.

Sincerely,

**EXECUTIVE BRANCH ETHICS COMMISSION**

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By Chair: John A. Webb

Enclosures: Advisory Opinion 94-44  
Advisory Opinion 95-34  
Advisory Opinion 95-27  
Advisory Opinion 98-35