

ADVISORY OPINION 98-27

June 25, 1998

RE: Does employee's private business present a conflict with official position?

DECISION: No.

This opinion is in response to your June 3, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 25, 1998, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are employed as a caseworker specialist principle with the Cabinet for Families and Children, Department for Social Insurance. As a caseworker specialist, you determine financial and technical eligibility of applicants for the Kentucky Transitional Assistance Program (K-TAP), the Food Stamp Program, and the Medical Assistance Program (Medicaid). You state you have no input in a Medicaid client's choice of a primary care provider. In addition, you also own a business where you electronically file medical claims for physicians to insurance carriers for payment. The physician is responsible for providing you a copy of the patient's bill that includes the necessary information to provide to the insurance carrier. You ask whether the ownership of your business is a conflict with the Executive Branch Code of Ethics.

KRS 11A.020(1) provides:

11A.020 Public servant prohibited from certain conduct --
Disclosure of personal or private interest.

(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;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(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.

From the information you provided, it does not appear that a conflict of interest exists between your private business and your duties in the public interest. The Commission is aware that some of the physicians with whom you do business, privately, may also be primary care providers to persons who apply for assistance from Medicaid; however, the Commission does not believe a conflict of interest exists as long as you have no involvement, as part of your official duties, in referring, suggesting or otherwise attempting to influence a client's choice of a primary care provider.

In addition, you should not use your official position in any way to gain an advantage for a physician for whom you work privately. Such involvement would be a conflict of interest as set forth above in KRS 11A.020.