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ATTORNEY GENERAL OPINION NO. 89- 83

The Honorable Robert A. Thiessen
Administrative Judge
Municipal Court
City Hall, Third Floor
455 North Main Street
Wichita, Kansas 67202

Re: Automobiles and Other Vehicles--Driving Under the
Influence of Alcohol or Drugs; Related
Provisions--Alcohol and Drug Safety Action Program;
Fees, Disposition

Synopsis: The costs incurred by the court as a result of
auditing the alcohol and drug safety action fund
may be characterized as an expense of administering
the fund. Therefore such costs may be paid from
the portion of the fund authorized to be used for
administrative expense. Cited herein: K.S.A. 1988
Supp. 8-1008.

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Dear Judge Thiessen:

As Administrative Judge for the Municipal Court for the City
of Wichita, you request our opinion regarding the
appropriateness of certain expenditures from the alcohol and
drug safety action fund created by K.S.A. 1988 Supp.
8-1008(e). Specifically you inquire whether money from the
fund may be used to pay the court's cost of auditing the fund.

The alcohol and drug safety action fund is made up of
assessments imposed on persons convicted of or diverted from

violations of K.S.A. 1988 Supp. 8-1567, the statute prohibiting driving under the influence of alcohol or drugs. Pertinent provisions regarding administration of the fund are as follows:

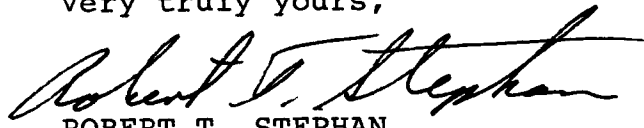
"Except as otherwise provided in this subsection, the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over that court. . . . Moneys credited to the alcohol and drug safety action fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for costs of the services specified by subsection (a) or otherwise required or authorized by law and provided by community-based alcohol and drug safety action programs, except that not more than 10% of the money credited to the fund may be expended to cover the expenses of the court involved in administering the provisions of this section. In the provision of these services the court shall contract as may be necessary to carry out the provisions of this section." K.S.A. 1988 Supp. 8-1008(e).

We do not believe the cost of auditing this fund is a cost "of the services specified by subsection (a)" of K.S.A. 1988 Supp. 8-1008 which are provided by community-based alcohol and drug safety action programs. However, it would appear to be an expense of the court in administering the provisions of the statute. Generally the term "administer" means "to manage or conduct." Black's Law Dictionary 41 (5th Ed.1979); Glocksen v. Holmes, 186 S.W.2d 634, 637 (Ky. 1945); Wisconsin Dept. of Taxation v. Pabst, 112 N.W.2d 161, 164, 165 (Wis. 1961). Clearly an audit of a fund being administered by the court is an expense of the court in managing that fund. It is an expense incidental to the management of the fund and a normal cost of doing business. Thus, in our opinion the court's cost of auditing the alcohol and drug safety action fund may be paid from the 10% of moneys


credited to the fund which are authorized to be used for the court's expenses incurred in administering the fund.

You ask further whether the 10% figure should be based on cumulative receipts since the creation of the fund or based on moneys deposited to the fund in the current fiscal year. In that K.S.A. 1988 Supp. 8-1008(e) does not expressly limit the amount set aside for administrative expenses to 10% of the receipts in a given fiscal year, we believe the amount should be based on the cumulative total of receipts.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm