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United States Government Accountability Office
Washington, DC 20548

B-309267

January 15, 2008

Mr. Edward J. Murray
Deputy Assistant Secretary for Finance
Department of Veterans Affairs
Washington, D.C. 20420

Subject: *Relief of Accountable Officer at Veterans Affairs Medical Center*

Dear Mr. Murray:

This responds to your request of March 26, 2007, that we relieve Joan C. Jackson, former principal cashier at the Washington, D.C., Veterans Affairs Medical Center, for physical losses that occurred in February and March 2001 and January 2003. Letter from Edward J. Murray, Deputy Assistant Secretary for Finance, Department of Veterans Affairs, to Gary L. Kepplinger, General Counsel, GAO, Mar. 26, 2007. At issue here are two losses—one of \$3,280 that occurred in 2001 and a second of \$123 that occurred in 2003. For the reasons stated below, we deny relief for the loss of \$3,280 in patient funds receipts from 2001. In 1991, GAO delegated to agencies the authority to resolve losses of less than \$3,000. B-243749, Oct. 22, 1991. Thus, the Department of Veterans Affairs (VA) may resolve administratively the loss of \$123 in patient funds receipts from 2003 in a manner consistent with this decision and our prior decisions.

BACKGROUND

Joan Jackson was employed as a principal cashier at the Veterans Affairs Medical Center in Washington, D.C. (DC VAMC) during a time period in which physical losses were sustained by the patient funds accounts. These accounts contain personal funds that patients turned over to the DC VAMC to be held for safekeeping during the patients' time at the facility. As principal cashier, Ms. Jackson's duties included receiving cash from patients and preparing receipts and deposit slips reflecting the amounts collected. *See* VA Handbook 4020, ¶ 5 (Oct. 17, 1994). Copies of both the receipts and the deposit slips are to be given to the patient, to the accounting department for entry into the agency's Financial Management System (FMS, also called the general ledger), and to the Patient Funds Office for entry into the subsidiary records of patient accounts, known as VISTA. *See* Memorandum from David L. King, Chairperson, Board of Investigation, Department of Veterans Affairs, to DC VA Medical Center Director, *Administrative Report of Investigation of Shortage of Funds at the Washington DC VAMC*, May 2, 2006 (Board of Investigation Report),

at ¶ 4(B)(1). The principal cashier must give the cash received and a copy of the receipt to a courier for transportation to a bank where it is deposited into the U.S. Treasury. See VA Handbook 4020, ¶ 5. VA policy requires that VISTA balances be reconciled with FMS at the end of each month. See VA Handbook 4020, ¶ 19; VA Manual MP-4, pt. V, § G.

A number of unexplained losses of patient funds occurred during February and March 2001 and again during January 2003. Ms. Jackson was the responsible cashier for the receipts set out below, totaling \$3,403, all of which were lost. See Memorandum from Sanford M. Garfunkel, Director, DC VAMC, to Chief Financial Officer, Veterans Health Administration, *Determination of Fault or Negligence in Patient Funds Shortages*, Sept. 5, 2006 (VAMC Memo), at ¶¶ 5(a)–(c) and attachments A–C. Each receipt represents cash received from a different DC VAMC patient for deposit into a patient funds account. These receipts are the subject of this decision.

Date of Receipt	Amount
1. 02/12/2001	700.00
2. 02/20/2001	230.00
3. 03/06/2001	1,750.00
4. 03/30/2001	600.00
5. 01/07/2003	53.00
6. 01/10/2003	15.00
7. 01/17/2003	55.00

Source: VAMC Memo, attachments A–C.

VA has already denied relief to Ms. Jackson for a loss of \$2,629, which resulted from eight additional missing receipts. See VAMC Memo, at ¶ 5(a)(2). The VA found that although Ms. Jackson claimed to have deposited those funds on March 1, 2001, the deposit was never made. *Id.* In addition, VA found that the armored car log furnished by Ms. Jackson as proof of deposit appeared to have been altered. *Id.* Although copies for all of these receipts exist, they were apparently not delivered to the accounting section, and the amounts were not entered into FMS.

For the remainder of the patient fund losses, which total \$3,403, there are copies of each receipt for patient funds signed by Ms. Jackson. See VAMC Memo, attachments B and C. However, there is no record of deposit slips for any of the funds in question. See VAMC Memo, at ¶¶ 5(b), (c). Although these receipts were entered into VISTA, they were apparently not entered into FMS. See Board of Investigation Report, at ¶ 4(A)(1). Similarly, there is no record of the funds involved ever being deposited in the Treasury. *Id.* The losses dating from February and March 2001 were not discovered until November 2001, during an attempt to reconcile FMS with VISTA, and were more fully investigated in December 2002. See VAMC Memo, at

attachment B-5. The record indicates that the losses dating from January 2003 were investigated in 2005 and 2006 but does not indicate specifically how they were discovered.¹ *See id.* at ¶ 5(c).

GAO'S AUTHORITY TO RELIEVE

GAO has the authority to relieve accountable officers from liability for physical losses when the agency has made a determination that the officer was carrying out official duties when the loss occurred and the loss was not the result of fault or negligence by the officer. 31 U.S.C. § 3527(a). Although the money involved in this case was patient money and not government money, a loss of patient funds from a VA hospital while in the custody of the United States is a liability of the government for which an accountable officer may be liable. *See* B-215477, Nov. 5, 1984; B-164896-O.M., Aug. 1, 1968.

GAO has delegated the authority to resolve losses of less than \$3,000 to the agency in which the loss occurred. B-243749, Oct. 22, 1991. This \$3,000 limitation applies to single incidents or the total of similar incidents which occur about the same time and involve the same accountable officer. *See id.*; GAO, *Policies and Procedures Manual for the Guidance of Federal Agencies*, title 7, § 8.9C (Washington, D.C.: May 18, 1993) (GAO-PPM). Whether losses constitute a single incident or similar incidents depends on the specific factual circumstances of the case at hand. For example, in a case where two losses from two different funds were attributable to the same theft, we found them to be one loss. *See* B-189795, Sept. 23, 1977. On the other hand, we considered two losses to be separate incidents when the first was believed to be a bookkeeping error and the second was due to an apparent theft. *See* B-260862, June 6, 1995.

All of the losses forwarded to us for consideration in this case involve the same accountable officer. All involve unexplained losses in the patient funds account. For each loss, there was a receipt generated, but no record of a deposit slip. The losses in 2001 occurred over a relatively brief period of time, about seven weeks. In the absence of any evidence to the contrary, we find them to be similar incidents. On the other hand, the losses from January 2003 cannot be said to have occurred at about the same time as those from 2001 and thus may not be combined with the 2001 losses. Therefore, we view the lost receipts from February and March of 2001 to be similar incidents and consider them as one loss for the purpose of deciding this case. Also, we view the three lost receipts from January 2003 to be similar incidents that should be considered a second loss. Since the missing receipts from 2001 total \$ 3,280, GAO retains the authority to resolve that loss. Because the 2003 lost receipts total only \$123, the 2003 loss may be resolved administratively by VA, consistent with the standards for relief set forth in 31 U.S.C. § 3527(a) and in relevant guidance from this and previous GAO decisions. *See* 7 GAO-PPM §§ 8.9.C, 8.9.A.

¹ The record does indicate that in all instances involved, the patients' accounts were credited with the deposits. *See* Board of Investigation Report at ¶ 4(A)(1).

DISCUSSION

When, as in this case, there is an unexplained loss, a presumption of negligence arises on the part of the accountable officer. *See* B-227714, Oct. 20, 1987. The presumption may be rebutted by convincing evidence that the loss was not caused by the negligence or lack of reasonable care by the accountable officer. *See* 70 Comp. Gen. 2 (1990). We found no evidence in the record submitted to us that would overcome this presumption. In fact, the record suggests that Ms. Jackson indeed was negligent in the handling of patient funds, as evidenced by the courier records and failure to follow the required procedure of completing deposit tickets and forwarding copies of the same to both the Accounting Department and Patient Funds Office. *See* VAMC Memo, at ¶ 5(a)(2).

In its initial assessment of the losses attributed to Ms. Jackson, VA stated that there was pervasive laxity in the administration of patient funds and argued for relief on this basis. On occasion, we have found that evidence establishing a pervasive laxity in agency procedures may rebut a presumption of negligence. *See* B-182386, Apr. 24, 1975. It should be understood, however, that we will accept pervasive laxity as the possible cause of an unexplained loss only when we find that the accountable officer was not negligent, or if found to be negligent, the accountable officer's negligence was not the proximate cause of the loss. *See* B-271896, Mar. 4, 1997. Thus, where the facts and circumstances surrounding a loss indicate pervasive laxity in the supervision and management of a cashier's office and neither the acts nor omissions of the accountable officer can reasonably be said to have been the proximate cause of the loss, we have relieved the accountable officer. *Id.* That is not the case presented here, however.

VA cited three specific decisions to support its argument: B-271896, Mar. 4, 1997; B-229778, Sept. 2, 1988; and B-182386, Apr. 24, 1975. These decisions differ significantly from the present case because the evidence of laxity in the decisions generally involved the supervision and management of a cashier's office. For example, in B-271896, agency management allowed other employees access to the cash area, and the cashier's safe combination lock was broken for more than a week. Similarly, in B-229778, six employees had access to the safe where the principal and alternate cashier's cash boxes were kept, and the keys to both boxes were kept in a sealed envelope in the safe. In B-182386, the combination to the safe had not been changed even though cashiers had changed three times over a period of 2 years and both the principal and alternate cashiers handled the fund and operated from the same cashbox. In the present case, VA has evidence suggesting that Ms. Jackson indeed was negligent, and neither Ms. Jackson nor VA has offered any evidence that agency management failed to take adequate steps to physically secure the funds at the DC VAMC. In fact, the record shows that the principal cashier, the co-payment

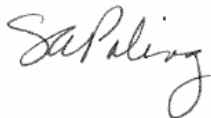
teller² and the alternate cashiers had their own cash boxes or drawers. No one person had keys to any box but their own, even in those cases in which two cash boxes were stored in the same safe. There is no evidence that anyone other than Ms. Jackson had access to the cash for which she issued signed receipts.

In addition, in prior decisions we have considered situations in which accountable officers have brought their concerns about the security of funds to the attention of agency management officials who failed to respond. While we have not required accountable officers to do so as a condition for granting relief, we have treated such actions as evidence of laxity on the part of agency management. Thus, where an accountable officer requested that the combination to her safe be changed, we considered her supervisor's failure to change the combination evidence of pervasive laxity. *See* B-232744, Dec. 9, 1988. In this case, however, there is no evidence that Ms. Jackson brought any security concerns to the attention of her superiors.

Instead of citing examples of physical insecurity, VA has stated that pervasive laxity existed due to the failure of the accounting office to perform monthly reconciliations between FMS and VISTA. This includes a failure to track deposit tickets and receipts. In addition, the accounting office repeatedly failed to reconcile deposits and resolve issues with the VA-wide finance center located in Austin, Texas, which is supposed to perform reconciliations. Although these failures are certainly evidence of poor oversight and management, they do not explain the two losses in this case, and they did not result in the loss. It is true, as VA asserts, that the losses might have been discovered earlier had the proper controls been in place. However, the deficiencies in management do not cast doubt on the physical security of the cash in question and cannot be considered sufficient evidence to rebut the presumption of negligence on the part of Ms. Jackson.

Accordingly, we deny relief for loss of patient funds receipts from February and March 2001, in an amount totaling \$ 3,280. VA may resolve the \$123 loss from March 2003 administratively consistent with this decision and our prior discussion.

Sincerely yours,



Susan A. Poling
Managing Associate General Counsel

² The main duty of the co-payment teller, who works out of the cashier's office, is to collect copayments from patients for medical care they received at the VAMC. None of the funds considered in this decision were collected as co-payments.