

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

November 16, 2018

John D. Sutton, Esquire
Attorney for Lawrence County Board of Supervisors
Post Office Box 1157
Monticello, Mississippi 39654

Re: Ambulance Service

Dear Mr. Sutton:

Attorney General Jim Hood received your letter of request and assigned it to me for research and reply.

Background

You state that Lawrence County has been served by a certain privately owned ambulance company which the County has been subsidizing in accordance with Mississippi Code Section 41-55-7. That company has approached the Board of Supervisors and indicated that it would require a large increase of that subsidy in order to continue the level of service that has been provided to the citizens of the County.

The Board is desirous of maintaining the current level of service and has contacted other ambulance providers, one of which is willing to continue the desired services at an acceptable cost to the County. That provider is not currently located in the County.

Questions and Responses

Question 1: Does Section 41-55-7 allow the County to pay a subsidy to a provider that is not currently providing ambulance services in the County, or is the payment of such subsidy limited to providers already operating in the County?

Response: Yes. We have previously opined that a county may contract with a privately run out of county ambulance service if the Board of Supervisors finds, consistent with the facts, that such ambulance service is adequate, and the subsidy is necessary to keep such services in operation. *MS AG Op.*, Lee (May 15, 1992).

Question 2: If said language does prohibit the Board from locating a service that exists elsewhere and subsidizing its expansion of service to

John D. Sutton, Esquire
November 16, 2018
Page 2

the County, would the statute be complied with if the new provider first established itself in the County and thereafter approached the Board about a subsidy to allow it to continue operating and serving the County's citizens?

Response: Our response to Question 1 renders this question moot.

Question 3: If a subsidy is allowed, would the allocation of space in a county owned building also be allowable as a form of subsidy, in addition to any funds directly paid to the provider?

Response: How much and in what form to subsidize a provider is a matter solely within the discretionary authority of the governing authorities. *MS AG Op.*, Johnson (January 11, 1991).

Question 4: Is there statutory authority for this contract to extend beyond the term of the current Board?

Response: Absent specific statutory authority that would allow a contract with an ambulance service provider to extend beyond the term of the current Board of Supervisors, any existing contract in effect at the beginning of the next term would be voidable at the discretion of the new Board.

Applicable Law and Discussion

Section 41-55-7 provides:

If there is in operation an adequate privately run ambulance service, then the governing authorities are hereby prohibited from contracting for ambulance services to be run by the public body. The governing authorities may, however, subsidize such existing privately run ambulance service, in their discretion, if they deem necessary to keep such service in operation.

In regard to the extension of an ambulance service contract beyond the term of the current Board of Supervisors, it is well-settled in Mississippi that governing boards may not bind successors in office to contracts which take away the rights and powers conferred by law in the absence of express statutory authority to do so. *Humble Oil & Refining Co., et al v. State*, 206 Miss. 847, 41 So.2d 26 (1949).

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Phil Carter
Special Assistant Attorney General