

1983 WL 181947 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 26, 1983

***1 Re: Opinion Request regarding State Health and Human Services Finance Commission**

William T. Putnam
Executive Director
State Budget and Control Board
Post Office Box 1244
Columbia, South Carolina 29211

Dear Mr. Putnam:

You have requested the opinion of this office regarding whether the State Health and Human Services Finance Commission (the Commission) recently created by Act 84, Acts and Joint Resolutions, 1983 (the Act) has the authority to engage in the delivery of services and operate the programs which it is mandated to administer under the Act.

The portion of Section 2 of Act 84 which creates [§ 44-6-30 to the Code of Laws of South Carolina](#), 1976, as amended, gives the Commission the authority to administer the Medicaid programs, the Social Services Block Grant Programs, and to be designated as the South Carolina Center for Health Statistics. This same section of the Act expressly prohibits the Commission 'from engaging in the delivery of services.'

The portion of Section 2 of Act 84 which creates [§ 44-6-40 to the Code](#) of Laws lists with specificity the duties which the Commission shall have as regards all health and human services interagency programs provided for in the Act. None of the nine duties enumerated authorize the Commission to engage in the actual operation of the programs or the delivery of services.

The portion of Section 2 of the Act which creates [§ 44-6-50 to the Code](#) of Laws mandates that the Commission shall contract with various health and human services agencies for the operational components of the programs administered by the Commission. This provision is essential since the Commission is not provided that staff or funding for the operation of the programs.

The general rule of construction is that statutes should be read to effectuate the legislative intent and that legislative intent must be collected from the context of the whole act so that all the parts be interpreted as subsidiary and harmonious. Sutherland Statutory Construction, Vol. 2A § 46.05 (4th Ed.). The word 'administer' if interpreted literally as giving the Commission the authority to actually run the programs mentioned in Act 84, would create a result contrary to the apparent intent of the legislature. Since, the legislature spelled out the duties of the Commission and specifically prohibited the Commission from engaging in the delivery of services, such additional power should not be created by implication through applying a broad meaning to the word 'administer'

Therefore, it is the opinion of this office based on generally accepted principles of of statutory construction, that the State Health and Human Services Commission does not have the authority to engage in the actual delivery or implementation of services for the programs under its administration.

Sincerely,

B. J. Willoughby
Assistant Attorney General

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