

1981 S.C. Op. Atty. Gen. 56 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-34, 1981 WL 96560

Office of the Attorney General

State of South Carolina

Opinion No. 81-34

April 3, 1981

**\*1 SUBJECT: Fees, Rules and Regulations, Residential Care Facility, State Department of Social Services**

A Licensed Residential Care Facility Cannot Charge a \$10.00 Laundry Fee to a Resident Who is Receiving a Supplement From the Department of Social Services

To: Richard E. McLawhorn

Legislative Council of the General Assembly

**QUESTION:**

Can a Licensed Residential Care Facility Charge a \$10.00 Laundry Fee to a Resident who is Receiving an Optional Supplement From the Department of Social Services, Which Laundry Fee Would Come Out of his \$25.00 Per Month Allowance for a Resident's Personal Needs?

**OPINION:**

By proviso No. 23 to § 42, Part I of Act No. 517 of 1980 (General Appropriations Act) the Department of Social Services is authorized to supplement the income of individuals who reside in licensed residential care facilities and who either qualify as aged, blind or disabled under Public Law 92–603. This proviso further states that ‘the residential care facilities are authorized to charge a fee of \$320.00 per month for this defined group, and the Department will allow an additional \$25.00 per month for the individual's personal needs.’

§ 43–28–50, Code of Laws of South Carolina (1976), as amended, provides in part as follows:

‘The residents (at residential care facilities) receiving an optional supplement from the Department of Social Services shall not be charged an amount greater than that set by the Department.’ [Emphasis added].

The South Carolina Department of Social Services. Regulation R–114–5–30(x)(3), Vol. 27, Code of Laws of South Carolina (1976) provides:

Residents receiving an optional supplement from DSS shall not be charged an amount greater than that set by DSS. Any payments or gratuities in excess of the established rate cannot be requested from residents, relatives, friends or other persons for services to a specific resident or as a condition for residence in the facility. Relatives, friends, or other persons may not be billed for any amount in excess of the established rate for any purpose.’ [Emphasis added].

It appears from a reading of the cited provisions from the General Appropriations Act, the statute and the regulations that the total fee which can be charged to a resident of a licensed residential care facility, who is receiving a supplement from the South Carolina Department of Social Services, is the absolute maximum fee which may be charged that individual under any circumstances for his residency in that facility. The \$25.00 personal needs fee is commonly understood to allow the resident of the facility to have personal spending money for such items as tobacco, shaving needs, cosmetics, clothing, medicine, etc.

The regulations governing the residential care facilities specifically provides for the type of bedding which is required and at what minimum time sheets, pillowcases and bedspreads are to be changed in the facility. Regulation 114-5-30(J). It appears that in arriving at the fee to be paid to a licensed residential care facility it would of necessity have to include, in addition to the charge for the resident's board and meals, items required under the regulations which would have to be furnished at a minimum by the facility, and this would include laundry costs which could not be passed along as an additional charge to the resident.

**\*2** It is the opinion of this office that a licensed residential care facility is not permitted under the current statutes and regulations to charge a \$10.00 laundry fee to a resident of its facility, who is receiving a supplement from the Department of Social Services, which fee would be charged out of his \$25.00 allowance for personal needs.

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