

1979 WL 43610 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 21, 1979

**\*1 RE: Authority to Make Per Diem Payments to Persons Serving on Program/Fiscal Review Committee Who Are Not Members of the Commission.**

Mr. Harry R. Bryan  
Director  
South Carolina Commission on Aging  
915 Main Street  
Columbia, South Carolina 29201

Dear Mr. Bryan:

You have requested an Opinion from this Office as to whether or not the South Carolina Commission on Aging has authority to pay per diem to persons serving on its program/fiscal review committee who are not members of the Commission on Aging.<sup>1</sup>

The South Carolina Commission on Aging was created by Act No. 294, ACTS AND JOINT RESOLUTIONS OF 1971, approved June 3, 1971, now codified as [§§ 43-21-10 et seq., CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#). You have called our attention to Sections 7 and 8 of the Act which are codified as §§ 43-21-70 and 43-21-80 respectively in the 1976 CODE. I do not deem § 43-21-70 to be pertinent to the question raised, as it only provides the authority for the Commission, with the consent of the Governor, to employ an executive director for the Commission. I do find that Section 1 of the Act now codified as [§ 43-21-10 of the 1976 CODE](#) to be germane.

[Section 43-21-10](#), among other things, creates the Commission on Aging and specifically provides that members of the Commission are to serve without compensation but are to receive per diem, mileage and subsistence as is authorized by law for members of boards, commissions and committees.

Section 43-21-80 authorizes the executive director to appoint other personnel and consultants as the Commission deems necessary and provides for their compensation to be set.

It is my understanding that the program/fiscal review committee is composed of Commission members as well as non-Commission members, none of whom are state employees. Only members of the Commission on Aging are authorized per diem. I find no authority for the payment of per diem to non-Commission members of the review committee.

Even assuming that members of the committee come within the purview of § 43-21-80, the distinction between per diem as permitted to the Commission members under authority of [§ 43-21-10](#), and compensation to personnel and consultants as permitted by § 43-21-80 must be noted. 'Generally, the term 'per diem,' as used in connection with compensation, wages, or salary, means pay for a day's services, . . . . The word 'compensation,' . . . , ordinarily means pay for services rendered, and it is sometimes held to be synonymous with 'salary'.' [Scroggie v. Scarborough, State Treasurer, 162 S.C. 218, 226, 160 S.E. 596 \(1931\)](#).

It is the opinion of this Office that the South Carolina Commission on Aging is without authority to pay per diem or compensation to non-Commission persons serving on its program/fiscal review committee. Members of the Commission who are also members of the program/fiscal review committee may receive per diem under the authority of [§ 43-21-10](#).

Very truly yours,

**\*2** Raymond G. Halford  
Deputy Attorney General

Footnotes

- 1** § 43-21-40(f) authorizes the Commission to appoint such committees as it deems necessary, but specifically provides that they are to serve without compensation.

1979 WL 43610 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.