

1975 S.C. Op. Atty. Gen. 70 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4002, 1975 WL 22300

Office of the Attorney General

State of South Carolina

Opinion No. 4002

March 19, 1975

**\*1** Honorable Mary D. McDonald  
Chairman  
South Carolina Board of Social Services  
Columbia, South Carolina

Dear Mrs. McDonald:

Your letter of March 7, 1975, inquires as follows:

'The South Carolina Board of Social Services has instructed me to request an official opinion from you on the question of the administration of the provisions of Title XX of the Social Security Act (Public Law 93-647).

'Section 2003(D)(1)(c) states that each state have an annual services plan which ' . . . provides for the designation, by the chief executive officer of the state or as otherwise provided by the laws of the state, of an appropriate agency which will administer or supervise the administration of the state's program for the provision of the services described in Section 2002(A)(1).' The question that we would like for you to answer is, does Title 71 of the 1962 Code of Laws of South Carolina designate the South Carolina Department of Social Services as the single state agency with the responsibility for the administration and provision of social services under the Social Security Act?'

I have been furnished with a copy of a telegram from the Secretary of the Department of Health, Education and Welfare dated March 4, 1975, which recites, in part:

'The State Attorney General must submit a certification identifying the appropriate agency and citing the legal authority under which such agency administers or supervises the State's program.'

Public Law 93-647 comprises comprehensive amendments to the Social Security Act and is cited as the Social Services Amendments of 1974.' The general purposes of the amendments are set forth in Section 2002(a)(1)(A)(B)(C)(D)(E) as follows:

'(A) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency,

'(B) achieving or maintaining self-sufficiency, including reduction or prevention of dependency,

'(C) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families,

'(D) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

'(E) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions,—.'

The Act also provides in the cited subsections that ‘services that are directed at these goals include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcohol and drug addicts.’

\*2 The Department of Social Services is vested with a wide range of powers in the general field of the areas above set forth. Recognition of this is set forth in Section 71–8 of the 1962 Code of Laws, which provides:

‘The State Department shall supervise and administer the public welfare activities and functions of the State . . . and may act as the agent of the State, cooperate with any Federal agency for the purposes of carrying out matters of mutual concern and administer any Federal funds granted the State in the furtherance of the duties imposed upon the State Department.’

This section provides further:

‘The aim of the Department shall be to promote the unified development of welfare activities and agencies of the State and local governments so that each agency and governmental institution may function as an integral part of a general system.’

Section 71–12 of the Code of Laws specifically provides for the securance of benefits under the Social Security Act or amendments thereto:

‘The State Department may take such actions as it may deem necessary . . . to enable the Department to secure for the State and its residents the full benefits available under the Social Security Act of Congress and any amendments thereof and under any other Federal legislation having for its purpose the improvement or extension of social and Welfare Assistance or services to the people of the United States.’

Further recognition of the status of the Department of Social Services vis-a-vis any other agency of the State appears to be recognized explicitly in an Act approved June 17, 1974, and relating to the prevention of the exploitation of disabled persons. That Act defines ‘Department’ in Section 2(8) as meaning ‘The South Carolina Department of Social Services, which has been designated as the single State agency for services under the Social Security Act.’

As noted above, the Federal amendments provide in Section 2003(d)(1)(C) for ‘the designation by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency which will administer or supervise the administration of the State's program for the provision of the services described in section 2002(a)(1).’ The latter description of services is set forth above.

As indicated by the telegram of the Secretary quoted above, ‘the State Attorney General must submit a certification identifying the appropriate agency and citing the legal authority under which such agency administers or supervises the State's program.’

I am aware of no agency of this State, except the Department of Social Services, which can properly be certified as having the legal authority to administer or supervise the State's program under the Social Services Amendments of 1974. Specific authority for such action by that Department is found in the statutes already referred to above.

Very truly yours,

Daniel R. McLeod

Attorney General

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