1973 S.C. Op. Atty. Gen. 93 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3497, 1973 WL 21967

Office of the Attorney General

State of South Carolina
Opinion No. 3497
March 26, 1973

***1** 1. The County is liable for the medical expenses for sick or injured persons in the County Jail who become sick or injured while there.

2. Colleton County is undoubtedly liable for medical treatment for ailments which occur after the prisoner is incarcerated and most probably liable for ailments which he brings to the prison with him.

County Attorney

Thank you for your letter of February 23, 1973, which I have delayed answering because of the time needed for research into the problem.

You inquire:

> "The Colleton County Supervisor has requested that I determine the liability of the County for medical expenses of persons who become sick or injured while in the County Jail."

The answer to this question is found in Section 55–406, Code of Laws, 1962, which reads, in part, as follows:

> "The cost of heating, medical attention, bedding and furniture necessary for the maintenance of such prisoners is not to be included in such contract, but shall be furnished by the County."

In my opinion, the County is liable for the medical expenses for sick or injured persons in the County Jail who become sick or injured while there.

You also inquire "whether the County is responsible for medical expenses when a person is arrested and it is later determined that he may have sustained injuries prior to his arrest and then taken to the hospital."

It is my opinion that the County is liable under the above statute. The chief case in point in this State appears to be Columbia Hospital of Richland County v. United States, 113 F.Supp. 691. This is a federal case, of course, but it will most likely control in similar circumstances with a State entity such as a county. The authorities are collected in 44 A.L.R. 1280. See also St. Vincent's Hospital v. Washington County (Ore.), 419 P.2d 36, and Pisacano v. State, 188 N.Y.S.2d 35. The fairly infrequent cases which would deny liability of a county for medical expenses are generally based upon the absence of statutory authority for such payment, which is the situation in the case of Colleton County. See Trinity Hospital Association v. City of Minot, 76 N.W.2d 916, and State v. Board of Commissioners of Ohio County, 92 S.E. 751.

The reasoning of the Pisacano case concerning the liability of a county for pre-existing medical ailments is likely to be controlling or highly persuasive in similar cases in this State, even apart from statute. The rationale of that case is that sick prisoners must be cared for by prison physicians and are not free to choose their doctors nor are the doctors free to not accept them as patients. The case also holds that budgetary considerations are not a valid reason for failing to give medical treatments.

It is my opinion that Colleton County is undoubtedly liable for medical treatment for ailments which occur after the prisoner is incarcerated and most probably liable for ailments which he brings to the prison with him.

***2** Daniel R. McLeod
Attorney General

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