



Lynn Fitch
ATTORNEY GENERAL
OPINIONS

May 13, 2020

Dorian E. Turner, Esq.
Attorney for the Hinds County Mental Health Commission
1880 Lakeland Drive, Suite D
Jackson, Mississippi 39216

Re: Authority of a Regional Health Commission to Refinance a Loan

Dear Ms. Turner:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

Questions Presented

May the Hinds County Mental Health Commission (“Commission”) borrow money from, or issue debt through, the Mississippi Development Bank or the Mississippi Hospital Equipment and Facilities Authority to refinance an outstanding loan?

If yes, may the Commission use its tax revenues from the county to repay such indebtedness?

Brief Response

The Commission may not borrow money through the Mississippi Development Bank¹ or the Mississippi Hospital Equipment and Facilities Authority² because it is expressly limited to borrowing money from private institutions in accordance with Miss. Code Ann. Section 41-19-33(1)(l).

¹ The Mississippi Development Bank was created as an independent public body corporate and politic pursuant to Miss. Code Ann. Section 31-25-7.

² The Mississippi Hospital Equipment and Facilities Authority was created as a body politic and corporate, not a state agency, but an independent instrumentality exercising essential public functions pursuant to Miss. Code Ann. Section 41-73-7.

The response to your first question renders your second question moot. However, Miss. Code Ann. Section 41-19-39 does authorize county tax levies to be used for repayment of any loans from private lending institutions made by the Commission under Section 41-19-33(l).

Applicable Law and Discussion

Regional mental health commissions, created pursuant to Miss. Code Ann. Sections 41-19-31, *et seq.*, are considered subdivisions and agencies of the state and, therefore, only have those powers which are granted expressly by statute and those which are necessarily implied.³

The express authority of regional mental health commissions is found in Section 41-19-33 and generally authorizes commissions to provide facilities and services to those persons with mental illnesses within the established region. The express authority of mental health commissions includes, but is not limited to, the following:

- (1) Each region so designated or established under Section 41-19-31 shall establish a regional commission to be composed of members appointed by the boards of supervisors of the various counties in the region. It shall be the duty of such regional commission to administer mental health/intellectual disability programs certified and required by the State Board of Mental Health and as specified in Section 41-4-1(2). In addition, once designated and established as provided hereinabove, a regional commission shall have the following authority and shall pursue and promote the following general purposes:

* * * * *

- (l) To borrow money from private lending institutions in order to promote any of the foregoing purposes. A commission may pledge collateral, including real estate, to secure the repayment of money borrowed under the authority of this paragraph. Any such borrowing undertaken by a commission shall be on terms and conditions that are prudent in the sound judgment of the members of the commission, and the interest on any such loan shall not exceed the amount specified in Section 75-17-105. Any money borrowed, debts incurred or other obligations undertaken by a commission, regardless of whether borrowed, incurred or undertaken before or after March 15, 1995, shall be valid, binding and enforceable if it or they are borrowed, incurred or undertaken for any purpose specified in this section and otherwise conform to the requirements of this paragraph.

In response to your first question, a regional mental health commission is limited to the express authority granted pursuant to Section 41-19-33(1)(l) by which to borrow funds or issue debt. It is, therefore, the opinion of this office that the Hinds County Mental Health Commission is not authorized to borrow money from or issue debt through either the Mississippi Development Bank

³ See MS AG Op., *Beasley* (October 27, 2017)(citing *City of Hattiesburg v. Region XII Commission on Mental Health and Retardation*, 654 So.2d 516 (Miss. 1995)).

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or the Mississippi Hospital Equipment and Facilities Authority in order to refinance its outstanding loan.

Due to our response to your first question, your second question is moot. However, Section 41-19-39 provides, in pertinent part:

In addition to the purposes for which the county tax levies and municipal contributions may be used as authorized under this section, the county tax levies and municipal contributions may also be used for repayment of any loans from private lending institutions made by the commission under the authority of Section 41-19-33(1).

Thus, any revenue anticipated from county tax levies and municipal contributions collected pursuant to Section 41-19-39 may be utilized for the purpose of repaying the financial debt previously incurred.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Avery Mounger Lee*

Avery Mounger Lee
Special Assistant Attorney General