



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 1, 2023

Drew Snyder, Executive Director
Mississippi Division of Medicaid
550 High Street, Suite 1000
Jackson, Mississippi 39201

Re: Section 43-13-117(K)

Dear Director Snyder:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

Does the Division of Medicaid have the authority under Mississippi Code Annotated Section 43-13-117(K) to diminish the liability of actuarial firms without violating Article 4, Section 100 of the Mississippi Constitution?

Brief Response

To the extent that your question asks us to opine on the constitutionality of Section 43-13-117, we must decline to do so. Statutes passed by the Mississippi Legislature are presumed constitutional until a court of competent jurisdiction rules otherwise. MS AG Op., *Capps* at *2 (Sept. 6, 1996) (citing *Mississippi Power Co. v. Goudy*, 459 So. 2d 257 (Miss. 1984)). As of the date of this opinion, we are not aware that any court has declared Section 43-13-117 unconstitutional. This statute remains valid until such time as a court of competent jurisdiction declares it to be unconstitutional or until it is repealed or amended by the Legislature.

Applicable Law and Discussion

Section 100 of the Mississippi Constitution provides:

No obligation or liability of any person, association, or corporation held or owned by this state, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the Legislature, nor shall such liability or obligation be extinguished except by payment thereof into the

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proper treasury; nor shall such liability or obligation be exchanged or transferred except upon payment of its face value; but this shall not be construed to prevent the Legislature from providing by general law for the compromise of doubtful claims.

According to Section 43-13-117(K), “In the negotiation and execution of such contracts involving services performed by actuarial firms, the Executive Director of the Division of Medicaid may negotiate a limitation on liability to the state of prospective contractors.”

Section 43-13-117(K) remains valid until such time as a court of competent jurisdiction declares it to be unconstitutional or until it is repealed or amended by the Legislature.

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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION