



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 10, 2024

Willie Griffin, Esq.
Attorney, Washington County Board of Supervisors
Post Office Box 189
Greenville, Mississippi 38702-0189

Re: Mental Health Related Costs Following Commitment Order When No Bed
is Available at State Hospital

Dear Mr. Griffin:

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

Questions Presented

1. Other than the costs required by Mississippi Code Annotated Section 41-21-79, “Liability for costs; maximum amount,” and the initial cost for transportation to a state center for treatment (Section 41-21-77(1)), are counties responsible for costs related to the treatment of persons ordered committed for mental and/or intellectual disability?
2. If Section 41-21-77(1) imposes a duty on a county-owned community hospital to work with regional health centers to provide care for local patients, does that require the community hospital to provide temporary care?
3. Which governmental entity is responsible for the costs of court-ordered local mental health services pending acceptance and transportation to a state facility?
4. Are counties required to enter contracts with community hospitals or third parties licensed and/or certified by the Mississippi Department of Mental Health to provide the local services, and must such contracts be approved by the director for Department of Mental Health?

Brief Response

1. Yes. Pursuant to Section 41-21-73(4), “[t]reatment before admission to a state-operated facility shall be located as closely as possible to the patient’s county of residence and the county of residence shall be responsible for that cost.”

2. Section 41-21-77(1) states that “[t] is the intent of this Legislature that county-owned hospitals work with regional community mental health/intellectual disability centers in providing care to local patients.”
3. Please see response to question one.
4. Please see response to question two. There is no statutory requirement for counties to contract with community hospitals or third parties to provide local mental health services for persons ordered committed but awaiting a placement at the state hospital for treatment.

Applicable Law and Discussion

Sections 41-21-61 *et seq.*, regard persons in need of mental health treatment and civil commitments.

You first ask if counties are responsible for costs related to the treatment of persons ordered committed for mental and/or intellectual disability beyond the cost set forth in Section 41-21-79 and the initial cost for transportation to a state treatment center.¹ Section 41-21-73 regards hearing requirements for civil commitments and allocation of costs for the same. Subsection (4) specifically provides:

If the court finds by clear and convincing evidence that the proposed patient is a person with mental illness or a person with an intellectual disability and, if after careful consideration of reasonable alternative dispositions, including, but not limited to, dismissal of the proceedings, the court finds that there is no suitable alternative to judicial commitment, the court shall commit the patient for treatment in the least restrictive treatment facility that can meet the patient’s treatment needs. *Treatment before admission to a state-operated facility shall be located as closely as possible to the patient’s county of residence and the county of residence shall be responsible for that cost. Admissions to state-operated facilities shall be in compliance with the catchment areas established by the State Department of Mental Health. A nonresident of the state may be committed for treatment or confinement in the county where the person was found.*

Miss. Code Ann. § 41-21-73(4) (emphasis added). Accordingly, beyond Section 41-21-79,

¹ Section 41-21-79 provides:

The costs incidental to the court proceedings including, but not limited to, court costs, prehearing hospitalization costs, cost of transportation, reasonable physician’s, psychologist’s, nurse practitioner’s or physician assistant’s fees set by the court, and reasonable attorney’s fees set by the court, shall be paid out of the funds of the county of residence of the respondent in those instances where the patient is indigent unless funds for those purposes are made available by the state. However, if the respondent is not indigent, those costs shall be taxed against the respondent or his or her estate. The total amount that may be charged for all of the costs incidental to the court proceedings shall not exceed Four Hundred Dollars (\$400.00). Costs incidental to the court proceedings permitted under this section may not be charged to the affiant nor included in the fees and assessments permitted under Section 41-21-65(6).

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a civilly committed patient's county of residence is also responsible for the costs of a patient's treatment before admission to a state-operated facility.

You next ask if Section 41-21-77(1) requires county-owned community hospitals to provide temporary care to persons ordered committed for mental and/or intellectual disability treatment. Pursuant to Section 41-21-77(1), "[i]t is the *intent* of this Legislature that county-owned hospitals work with regional community mental health/intellectual disability centers in providing care to local patients." (emphasis added).

Finally, while there is no statutory requirement for counties to contract with community hospitals or third parties to provide local mental health services for persons ordered committed but awaiting a placement at the state hospital for treatment, counties may do so. *See* Miss. Code Ann. § 41-21-143 (regarding collaborative agreements).

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/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

OFFICIAL OPINION