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EXECUTIVE SECRETARY OF COUNTY WELFARE BOARD—
ACTING AS TRUSTEE OF ESTATE OF A WARD LESS THAN
ONE THOUSAND DOLLARS, MAY USE ASSETS FOR MEDI-
CAL AND DENTAL CARE OF SUCH CHILD, OR MAY AD-
MINISTER ASSETS OF MINOR'S ESTATE WITHOUT BEING
APPOINTED GUARDIAN OF SUCH MINOR. §§2111.05, 5153.18,
R.C.

SYLLABUS:

1. Pursuant to the provisions of Sections 2111.05 and 5153.18, Revised Code, the executive secretary of a county welfare board, acting as trustee of an estate of a ward which is less than one thousand dollars, may use those assets for medical and dental care of such child subject to the approval of the probate court.
2. Pursuant to the provisions of Sections 2111.05 and 5153.18, Revised Code, the executive secretary of a county welfare board acting as the trustee of a minor's estate of less than one thousand dollars may administer those assets without being appointed guardian of such minor.

Columbus, Ohio, September 17, 1959

Hon. Glenn E. Detling, Prosecuting Attorney
Clark County, Springfield, Ohio

Dear Sir :

This will acknowledge receipt of your request for my opinion which asks:

“A question has recently arisen here in Clark County as to the powers of the Executive Secretary of the County Welfare Board of the assets belonging to minor children being cared for by the Board.

“Section 5153.18 (C) of the Revised Code, gives the Executive Secretary of the Board power to act as trustee of the estate of any ward, if the estate does not exceed One Thousand Dollars. The question that has arisen is this:

“1. Does the Executive Secretary under the above subsection have authority to take assets in the name of a minor child, including United States Saving Bonds in the name of such child, and use those assets for the medical and dental care of such child?

“Assuming that the answer to question one would be in the affirmative, is it necessary that the Executive Trustee be appointed guardian for such children through proceedings in the Probate Court? It should also be pointed out that a number of the minor children involved in this question have living natural parents who in some cases contribute to the support of their children.”

Section 2111.05, Revised Code, provides in part:

“* * *

“If the estate is one of one thousand dollars or less and the ward is a minor, the court may, without the appointment of a guardian by the court or the giving of bond, authorize the deposit thereof in a depository authorized to receive fiduciary funds payable to the guardian when appointed or to the ward when he attains majority, or the court may authorize the delivery thereof to the natural guardian of the minor, to the person by whom the minor is maintained, *to the executive secretary who is responsible for the administration of child welfare services in the county*, or to the minor himself.

* * *” (Emphasis added)

Division (C) (1) of Section 5153.18, Revised Code, provides:

“* * *

“(C) When appointed by the probate court, in lieu of guardian, in accordance with section 2111.05 of the Revised Code:

“(1) The executive secretary may act as trustee of the estate of any ward, provided such an estate does not exceed one thousand dollars in value.

“* * *”

Section 5153.19, Revised Code, provides:

“The county child welfare board or county department of welfare shall, before entering into any agreement obligating the

board or department with respect to the care of any child, determine the ability of the child, parent, guardian, or other person to pay for the cost of such care, having due regard for other dependents. Such determination shall, if accepted by the parent, guardian, or other person, be made a part of such agreement. *If the executive secretary has been appointed in lieu of a guardian and is acting as trustee of the estate of the child, such determination shall be subject to the approval of the probate court.*" (Emphasis added)

It would seem from the foregoing sections that the executive secretary appointed as trustee in accordance with Section 2111.05, Revised Code, has the authority to take assets in name of a minor child and act as the trustee of the estate of any ward, provided such an estate does not exceed one thousand dollars.

Regarding the costs of the trusteeship, Section 5153.18, Revised Code, provides:

"* * *

"The funds of any such trusteeship shall not be mingled with other moneys of the board or department or of the county. *The cost of any such trusteeship shall be paid out of funds of the trust, but no fee shall be allowed to the executive secretary as such trustee. * * **" (Emphasis added)

You will observe Section 5153.19, Revised Code, makes it mandatory upon the county child welfare board or county department of welfare to determine the ability of the child to pay for the cost of care to be furnished and, if the executive secretary has been appointed in lieu of a guardian, such determination is subject to the approval of the probate court.

The manner by which an estate of less than one thousand dollars should be administered has been left to the discretion of the probate court as provided in Section 2111.05, Revised Code. Such section specifically provides that the court may authorize the delivery of the funds to the executive secretary who is responsible for the administration of child welfare services in the county. It does not require that a guardian be appointed for such delivery.

Therefore, it is my opinion and you are advised:

1. Pursuant to the provisions of Sections 2111.05 and 5153.18, Revised Code, the executive secretary of a county welfare board, acting as

trustee of an estate of a ward which is less than one thousand dollars, may use those assets for medical and dental care of such child subject to the approval of the probate court.

2. Pursuant to the provisions of Sections 2111.05 and 5153.18, Revised Code, the executive secretary of a county welfare board acting as the trustee of a minor's estate of less than one thousand dollars may administer those assets without being appointed guardian of such minor.

Respectfully,

MARK McELROY

Attorney General