

OPINION NO. 70-090**Syllabus:**

A county children services board does not have authority to pay board and contribute to the financial support of a child after placement in an adoptive home.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio
By: Paul W. Brown, Attorney General, July 24, 1970

I have your request for my opinion which reads as follows:

"Does the Summit County Childrens Services Board have the authority to pay board and contribute to the financial support of a child after placement in an adoptive home."

Section 5153.16, Revised Code, sets out the powers and duties of the county children services board, and reads as follows:

"The county children services board shall, subject to the rules, regulations, and standards of the department of public welfare, have the following powers and duties on behalf of children in the county deemed by the board or department to be in need of public care or protective services:

"(A) To make an investigation concerning any child reported to be in need of care, protection, or service;

"(B) To enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of public welfare, department of mental hygiene and correction, other department, or any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any such child, or with respect to any matter, in the interest of such child, provided the permanent custody of a child shall not be transferred by a parent to the board or department without the consent of the juvenile court;

"(C) To accept custody of children committed to the board by a court exercising juvenile jurisdiction:

"(D) To provide care of all kinds which the board deems for the best interest of any child the board finds in need of public care or service; provided that such care shall be provided by the board by its own means or through other available resources, in such child's own home, in the home of a relative, or in a certified foster home, receiving home, school, hospital, convalescent home, or other institution, public or private, within or outside the county or state;

"(E) To provide social services to any girl or woman who is pregnant with or has been delivered of an illegitimate child;

"(F) To make investigations concerning any application for the care of crippled children under the social security act, and under sections 5103.07 and 5103.08 of the Revised Code relating to such care;

"(G) To provide temporary emergency care for any child deemed by the board to be in need of such care, without agreement or commitment;

"(H) To find foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

"(I) Subject to the approval of the board of county commissioners and the department of public welfare, to establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision, and may, pursuant to such agreement, acquire, operate, and maintain such an institution, provided that the board may enter into an agreement with

a municipal corporation, a board of education, and the board of county commissioners, or with any of them to provide for the maintenance and operation of children's training schools; such agreement may provide for the contribution of funds by any municipal corporation, board of education, or board of county commissioners, in such proportions and amounts as their agreements state, and for the operation and supervision of such training schools by any one of them or by the joint action of two or more of them; provided that municipal corporations, school boards, and boards of county commissioners may expend moneys from their general funds for maintaining and operating such joint children's training schools;

"(J) To acquire and operate a county children's home or to establish, maintain, and operate a receiving home for the temporary care of children, or procure foster homes for this purpose;

"(K) To enter into an agreement with the trustees of any district children's home, respecting the operation of such home in co-operation with the other county boards in the district;

"(L) To co-operate with, make its services available to, and act as the agent of persons, courts, the department of public welfare, and other organizations within and outside the state, in matters relating to the welfare of children;

"(M) To make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child for release from school, where such service is not provided through a school attendance department."

Examination of Subsections (A) through (C) and Subsections (E) through (M), discloses no language contained therein upon which to predicate power or authorization in the county children services board to pay the family adopting a child for the child's board and financial support. Subsection (D) must be examined more carefully.

It must be first noted that after a child has been adopted, the adopting parents have complete custody of the child to the same degree as natural parents and the county children services board has no custody over the child. Thus, the relevant language of Section 5153.16 (D), supra, requires that the care or services given by the board shall be given by its own means, or through other available resources, in the child's own home. The normal and usual meaning must be applied to this statutory language. The giving of care or services by the board in the child's own home does not contemplate the contribution of cash benefits to the parents for the support and maintenance of the child. To warrant an interpretation of cash payments, express statutory authority must exist. If the legislature had intended to authorize the board to make cash payments for the support of a child living with its own family, it would not have limited

the language to the giving of care or services by the board in the child's own home. This is clearly distinguishable from the case in which the child is in the custody of the children services board. In such case, the child would be placed in a county children's home or receiving home, or in a foster home. Section 5153.16 (J), supra, authorizes the board to acquire and operate a county children's home, or to establish, maintain, and operate a receiving home for the temporary care of children, or procure foster homes for this purpose. The power and authority of the board to make the cash expenditure for the maintenance or procurement of such homes is clear.

It is my conclusion that the intent of the legislature expressed in Section 5153.16, supra, is to the effect that where the children services board has custody of the child, the board has power and authority to make the necessary cash expenditures for the maintenance of the child, but where the custody of the child is not in the board, but is in the parents, natural or adoptive, then the board may render care or services only to the child and may not make expenditures of cash benefits to the parents for the support and maintenance of the child. Chapter 5107, Revised Code, provides the only authority for public assistance money payments to families with dependent children, and this assistance is provided through the county welfare department.

I am of the opinion therefore, and you are so advised that a county children services board does not have the authority to pay board and contribute to the financial support of a child after placement in an adoptive home.