

Note from the Attorney General's Office:

1958 Op. Att'y Gen. No. 58-2169 was modified by 1958 Op. Att'y Gen. No. 58-3039.

2169

COUNTY COMMISSIONERS — COUNTY FUNDS — EXPENDITURE FOR AMBULANCE SERVICE NOT ALLOWABLE WHEN SHERIFF, HIGHWAY PATROLMAN, PRIVATE INDIVIDUAL REQUESTS SUCH SERVICE AS A RESULT OF A HIGHWAY ACCIDENT, EMERGENCY—FIRE DEPARTMENT SERVICE—OPINION 713, OAG 1939, P. 878, APPROVED AND FOLLOWED.

SYLLABUS:

Where a sheriff or a state highway patrolman, in the investigation of a highway accident, or other emergency case, calls a funeral director, fire department or other ambulance operator for the removal of injured persons to a hospital, or where a private individual requests ambulance service in such a case, the county commissioners are without authority to pay the expense of such ambulance service. Opinion No. 713, Opinions of the Attorney General for 1939, p. 878, approved and followed.

Columbus, Ohio, May 27, 1958

Hon. Ralph A. Hill, Prosecuting Attorney
Clermont County, Batavia, Ohio

Dear Sir:

You ask for my opinion as to the following:

1. Is the county responsible for payment for emergency runs made by funeral directors, fire departments and ambulances that are "ordered" out by the sheriff or by the highway patrol?
2. Is the county responsible for payment for emergency runs made by funeral directors, fire departments, or other ambulance operators?

The first question respecting emergency runs called out by the sheriff, was answered by my predecessor in Opinion No. 713, Opinions of the Attorney General for 1939, p. 878. The first paragraph of the syllabus of that opinion is as follows:

"1. Where a sheriff, in the investigation of a highway accident, calls an ambulance for the removal of injured persons to a hospital, it is not proper for county commissioners to authorize the payment of such bills for ambulance service."

As was said in that opinion:

"It must be remembered in approaching a question such as this that the Board of County Commissioners has only such powers as have been granted it expressly by statute or those derived by necessary implication therefrom. See Jones, Auditor vs. Commissioners, 57 O. S. 189.

"In the case of State, ex rel. Locher vs. Menning, 95 O. S. 97 at page 99, the following statement is found bearing upon the right of the county commissioners to recognize and pay bills against the county:

'The legal principle is settled in this state that county commissioners, in their financial transactions, are invested only with limited powers, and that they represent the county only in such transactions as they may be expressly authorized so to do by statute. The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.'

“In view of the preceding statements, it is obvious that for county commissioners to justify the payment of such bills, some authorization in law must be found to exist and an express or directly implied authority for the recognition of such claims is a condition precedent to their allowance.”

After a search of the statutes, I am unable to find any such authorization, either direct or implied, for county commissioners to recognize and authorize the payment of the type of claim you present.

It is my opinion and you are accordingly advised that where a sheriff or a state highway patrolman, in the investigation of a highway accident, or other emergency case, calls a funeral director, fire department or other ambulance operator for the removal of injured persons to a hospital, or where a private individual requests ambulance service in such a case, the county commissioners are without authority to pay the expense of such ambulance service. (Opinion No. 713, Opinions of the Attorney General for 1939, p. 878, approved and followed.)

Respectfully,

WILLIAM SAXBE

Attorney General