

FORMAL OPINION

March 12, 1976

JOANNE E. FINLEY, M.D., M.P.H.  
*Commissioner of Health*  
Health and Agriculture  
John Fitch Plaza  
Trenton, New Jersey 08625

FORMAL OPINION NO. 9-1976

Dear Commissioner Finley:

You have asked for our advice as to whether the Commissioner of Health under the Health Care Facilities Planning Act may set a rate at which a county must reimburse a hospital for health care provided to an indigent. Such hospital care may qualify for reimbursement under a variety of programs. See N.J.S.A. 30:4D-1 *et seq.* (Medicaid); N.J.S.A. 44:8-107 *et seq.* (General Public Assistance). Your inquiry is limited in scope to reimbursement by a county under N.J.S.A. 44:5-11 *et seq.*, a wholly distinct program of hospital care for the poor. You are advised that the Legislature has conferred upon the Commissioner of Health the exclusive power to establish a reimbursement rate even though a county's fiscal ability to reimburse at this level may be limited by restrictions upon its authority to appropriate funds for such a purpose.

In 1971, the Legislature enacted the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 *et seq.*, to assure that "hospital . . . services of the highest quality, of demonstrated need, [are] efficiently provided and properly utilized at reasonable cost." N.J.S.A. 26:2H-1. The Legislature conferred upon the Commissioner of Health "the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, [and] hospital and related health care services. . . ." N.J.S.A. 26:2H-1. The powers conferred under this statute are to be liberally construed to permit the agency to achieve the assigned task. *Cooper River Convalescent Center v. Dougherty*, 133 N.J. Super. 226, 232 (App. Div. 1975). In particular, the Legislature expressly empowered the Commissioner of Health to establish a rate at which a government agency must pay a provider for health care services. N.J.S.A. 26:2H-18(b). A government agency whose payments are controlled by this provision includes "a department, board, bureau office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof." N.J.S.A. 26:2H-2(e) (emphasis supplied). The question therefore raised is whether the power of the Commissioner of Health to establish a rate of payment for hospital services provided an indigent is circumscribed by specific limitations upon a county's authority to appropriate funds for such a purpose.

The Legislature has specifically limited the amount of funds a county may make available for indigent medical care. By way of illustration, it is instructive to note that a county of less than 925,000 people may appropriate 1/10 of 1% of its property valuation to hospitals providing indigent care. N.J.S.A. 44:5-16(A) and (B). Such an appropriation, however, may not exceed either a hospital's annual operating deficit or the average cost of patient care at that county's county hospital, depending upon which of these options a county selects. N.J.S.A. 44:5-16(A) and (B). With regard to an appropriation to cover a hospital's operating deficit, and when such an appropriation is made "generally" rather than to a specifically named hospital, a county board of freeholders "may. . . apportion the amount so appropriated to any such hospital

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in the manner which in their judgment may be deemed for the best interest of the county." N.J.S.A. 44:5-16(A). A county larger than 925,000 in population may appropriate up to \$10,000 annually for each hospital treating indigents. N.J.S.A. 44:5-17 and 18. However, the amount paid by such a county for an individual patient "shall not exceed the sum charged in the hospital . . . for patients occupying beds in wards open to the public." N.J.S.A. 44:5-17. In addition, a county having no county hospital other than a hospital for treatment of tuberculosis, mental illness or "contagious or infectious disease" may appropriate a specified sum to certain hospitals. N.J.S.A. 44:5-11.\* Thus, a county generally may appropriate funds up to certain specified ceilings to reimburse a hospital for care provided its indigent population.

In order to reconcile the broad authority of the Commissioner of Health to set reimbursement rates for county governments with existing limitations on the amount of money to be spent for indigent care, these statutory provisions must be interpreted as a single, consistent unit. *Loboda v. Clark Tp.*, 40 N.J. 424, 435 (1963). Our Supreme Court has consistently emphasized that statutory provisions on the same subject should be interpreted so that they "may reasonably stand together, each in . . . [their] own particular sphere." *Swede v. City of Clifton*, 22 N.J. 303, 317 (1956). In this situation, the Legislature has given the Commissioner of Health the exclusive power to establish a rate at which a county must pay a hospital for indigent care. A county in turn is empowered to reimburse a hospital for indigent care solely within the limits of certain maximum amounts provided by law. It may be reasonably concluded that the Legislature intended a county to now reimburse a hospital for indigent care at the rate established by the Commissioner of Health to the extent of its allowable appropriations for this purpose. As a result, it may be necessary for a county to establish new fiscal procedures for making payments due on account of free inpatient hospital care furnished its indigent population.

It is our opinion therefore that the Commissioner of Health has been given the exclusive authority under the Health Care Facilities Planning Act to fix a reimbursement rate at which a county government must pay a hospital for free inpatient hospital care provided its indigent residents.

Very truly yours

WILLIAM F. HYLAND

*Attorney General*

By: DOUGLASS L. DERRY

*Deputy Attorney General*

\* The limitations on the amount of an appropriation under this method are as follows. A county with a population of less than 300,000 may appropriate up to \$800,000 for such services, and a county with a larger population may appropriate up to \$1,500,000. N.J.S.A. 44:5-11. In both instances such an appropriation may only be made to a nonprofit hospital. N.J.S.A. 44:5-11. In the event there is more than one such hospital in a county, funds must be distributed "on the basis of the free ward day's treatment furnished by each of them . . ." N.J.S.A. 44:5-12. A county of the fourth (one having a population of less than 50,000) or sixth class (one bordering on the Atlantic Ocean and having a population of less than 100,000) may appropriate up to \$15,000 to an individual hospital. N.J.S.A. 44:5-19. Such an appropriation may be made either to a private or a charitable hospital. N.J.S.A. 44:5-19.