

1975 WL 28858 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 27, 1975

\*1 R. Archie Ellis  
Commissioner  
South Carolina Department of Social Services  
P. O. Box 1520  
Columbia, South Carolina 29202

Dear Mr. Ellis:

I am in receipt of your letter of March 17, 1975, regarding the legality of two proposed appointments to the Marlboro County Board of Social Services. As per the proposed Rogers appointment, I am given to understand that the Merit Rule would prohibit Mr. Rogers from providing his services to the Marlboro County Board of Social Services as the restriction on relationship of employees is controlling. That is to say, if in fact you desire to take immediate action on the Rogers appointment, the facts as you have outlined them militate against his appointment to the Marlboro County Board. However, you may forego immediate actions pending approval of your revised Personnel Manual by the Atlanta Regional Office of HEW. In any case, Mr. Rogers is presently not eligible for appointment to the Marlboro County Board of Social Services.

The second proposed appointment brings to the fore a possible conflict of interest problem. The facts disclose that the proposed appointee in question operates a nursing home which has a contract with the South Carolina Department of Social Services for the care of recipients under the Medicaid program. Section 73-31, et seq., Code of Laws of South Carolina, 1962, as amended, provides for the creation of County Departments and Boards of Social Services. No language is found in the above-cited provisions that would intimate that such County boards have a direct input or influence on the policy making decisions of the Department of Social Services. In the absence thereof, the contemplated appointment presents no conflict of interest, the enormity of the financial interest notwithstanding. It is the view of this Office that the operator of the nursing home which has a contract with the South Carolina Department of Social Services may be appointed to the Marlboro County Board of Social Services.

Respectfully,

Lincoln C. Jenkins, III  
Staff Attorney

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