

1975 S.C. Op. Atty. Gen. 227 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4165, 1975 WL 22460

Office of the Attorney General

State of South Carolina

Opinion No. 4165

October 27, 1975

*1 The State Human Affairs Commission has authority to contract with Legal Aid Agencies to provide legal services to the elderly poor in civil cases involving the existence of or potential for discrimination.

TO: James E. Clyburn
Commissioner
State Human Affairs Commission

QUESTION PRESENTED:

Whether the State Human Affairs Commission has the statutory authority to contract with Legal Aid Agencies to provide legal services to the elderly poor in civil cases?

STATUTES, CASES, ETC., INVOLVED:

The powers and duties of the State Human Affairs Commission are set forth in Section 1-360.21, ET SEQ., Code of Laws of South Carolina, 1962, as amended (Cum.Supp.).

Executive and administrative officers, boards, departments and commissions have no powers beyond those granted by express provision or necessary implication. SEE, 81 C.J.S. States § 58 at 978.

[42 USC § 1397](#), ET SEQ.

South Carolina Comprehensive Annual Services Program Plan, at Pages 53-54.

DISCUSSION:

The State Human Affairs Commission was established to eliminate and prevent discrimination against certain statutory enumerated classes. One such class is the elderly. While there is no express authority by which the Commission can provide legal assistance to the elderly poor, it is empowered to contract with 'Agencies . . . which are dedicated to the promotion of human rights and affairs'. [See § 1-360.27(G), Code of Laws of South Carolina, 1962 (as amended)]. There can be no question that Legal Aid Agencies are dedicated to such ideals. Therefore, it seems well within the statutory guidelines for the State Human Affairs Commission to enter into agreement with Legal Aid Agencies whereby such agencies will provide legal services for the elderly poor who qualify under the standards set by [42 USC § 1397](#), commonly referred to as Title XX of the Social Security Act, and, under the South Carolina Comprehensive Annual Services Program Plan, as developed by the Office of the Governor and the South Carolina Department of Social Services. This aforementioned agreement should extend only to those cases which will result in the encouragement of fair treatment for, and the elimination and prevention of discrimination against the elderly poor.

Legal services to the elderly and low income include: 'Legal advice, drafting of legal documents, representation before judicial and administrative bodies, estate determination (writing of wills and settling of will disputes), tax

related (determination of legal deductions, filing procedures, representation in post-filing disputes), home ownership and landlord-tenant problems (reading and interpretation of leases and contracts, settling disputes between landlord and tenant), and consumer related areas (insurance, credit consumer fraud, bankruptcy).’ [See South Carolina Comprehensive Annual Services Program Plan, at Pages 53–54]. These services shall be provided in strict accordance with the standards set by the contracting agencies, so that competition with the practicing bar is precluded.

CONCLUSION:

*2 The State Human Affairs Commission has the authority to contract with Legal Aid Agencies to provide legal services to the elderly poor in civil cases involving the existence of or potential for discrimination. These legal services shall be in strict accordance with the standards set by the South Carolina Comprehensive Annual Services Program Plan and the Charters of the contracting Legal Aid Agencies.

Lincoln C. Jenkins, III
Staff Attorney

1975 S.C. Op. Atty. Gen. 227 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4165, 1975 WL 22460