

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
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February 1, 2013

Opinion No. 13-07

Reimbursement of Secondary Transport Agencies under Tenn. Code Ann. § 33-6-901

**QUESTION**

Do any circumstances exist whereby an initial transporting county may refuse to reimburse a properly designated secondary transportation agency for expenses incurred in the out-of-county transport of persons suffering from mental illness or severe emotional disturbances?

**OPINION**

No.

**ANALYSIS**

This Office recently opined that pursuant to Tenn. Code Ann. § 33-6-901(a) a sheriff must transport all persons with mental illness or serious emotional disturbance for involuntary admission to inpatient care unless certain other authorized entities provide such transport, and that a sheriff has the authority to designate one or more municipal law enforcement agencies within the county to serve as secondary transportation agents to provide designated transport services for persons who are suffering from mental illness or severe emotional disturbances. Tenn. Att’y Gen. Op. 12-88 (Sept. 20, 2012). This Office further opined that Tenn. Code Ann. § 33-6-901(b) requires the initial transporting county to reimburse a secondary transportation agent for expenses incurred in the transport of such persons *only* where the person was transported to an out-of-county hospital or other treatment facility, reasoning as follows:

The sheriff or secondary transportation agent, including any municipal law enforcement agency so designated by the sheriff, “may bill the initial transporting county for transportation costs” *if* the person is transported to a hospital or treatment resource in a county other than the initial transporting county. Tenn. Code Ann. § 33-6-901(b). The initial transporting county is “the county in which the person is initially transported by the sheriff or secondary transportation agent,” and that county remains responsible “for the remainder of such person’s

transportation requirements.” *Id.* These provisions collectively evidence a legislative intent to place any costs of transport that occur after the initial transport to a county outside the initial transporting county on the initial transporting county and to allow the sheriff or secondary transportation agent to directly bill the initial transporting county for transports outside the county.

However, these provisions do not allow the sheriff or the secondary transportation agent to bill for the initial transport, or any subsequent transport that is within the boundaries of the county itself. The costs of these transports are presumably covered by these entities’ annual budgets. The failure to include reimbursement for these transports implies that the General Assembly did not intend to allow the sheriff or the secondary transportation agent to bill for these “in county” transports.

Tenn. Att’y Gen. Op. 12-88 at 3-4 (emphasis in original).

The question now posed is whether any circumstances would allow the initial transporting county under Tenn. Code Ann. § 33-6-901 to not pay a properly designated secondary transportation agent for expenses incurred in the out-of-county transport. Tenn. Code Ann. § 33-6-901(b) sets forth both the obligation of the sheriff or secondary transportation agent to continue to transport a mentally ill or severely emotionally disturbed patient after the initial transfer to a hospital or other medical facility and the obligation of the initial transporting county to pay any costs for any transport to an out-of-town county hospital or treatment resource, stating:

When a sheriff or secondary transportation agent is required to transport a person to a hospital or treatment resource for screening, evaluation, diagnosis or hospitalization, the county in which the person is initially transported by the sheriff or secondary transportation agent is responsible for the remainder of such person’s transportation requirements. The initial transporting county is responsible for the continuing transportation of the person even if the person is assessed, diagnosed, screened or evaluated in a second county before being admitted to a facility, hospital or treatment resource in a third county. If the person is transported to a hospital or treatment resource by the sheriff or secondary transportation agent of a county other than the initial transporting county, the sheriff or secondary transportation agent actually providing transportation may bill the initial transporting county for transportation costs.

Tenn. Code Ann. § 33-6-901(b).

The plain language of Tenn. Code Ann. § 33-6-901 unambiguously imposes an unconditional obligation on the initial transporting sheriff or secondary transportation agent to transport a mentally ill or severely emotionally disturbed person to the necessary hospital or treatment facility. The statute also imposes an unconditional obligation upon the initial transporting county to pay the costs and expenses of any transport to any out-of-county hospital or treatment resource. Thus the General Assembly provided no exceptions to the initial

transporting county's financial obligation to pay for any transport by a duly appointed secondary transportation agent to any out-of-county hospital or treatment facility. *See Rogers v. Louisville Land Co.* 367 S.W.3d 196, 214 (Tenn. 2012) (quoting *In re Adoption of A.M.H.*, 215 S.W.3d 793, 808 (Tenn. 2007)) (stating general rule of statutory construction that if the statute is not ambiguous then "the plain and ordinary meaning of the statute must be given effect"); *Harman v. Univ. of Tenn.* 353 S.W.3d 734, 738-39 (Tenn. 2011) (stating that the express mention of one thing implies the exclusion of things that are not mentioned).

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