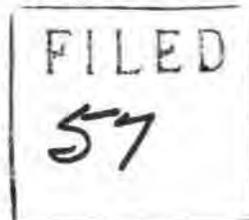


COUNTY COURT: Official health center organization has exclusive
HEALTH: control over expenditure of moneys collected to the
credit of a county public health center, and upon
presentation of a properly authenticated voucher by
said organization, the county court must issue a
warrant.

January 10, 1950



Honorable Edgar Mayfield
Prosecuting Attorney
Laclede County
Lebanon, Missouri

Dear Sir:

Your letter at hand requesting an opinion of this department
which in part reads:

"Your interpretation of Section 4 of House
Bill 280 as passed by the 63rd General
Assembly relative to the control of the
finances of a county health center is re-
quested. Your attention is respectfully
directed to the last sentence of Section
4, supra, which reads as follows: 'It
(the public county health center organiza-
tion) shall have exclusive control of the
expenditures of all moneys collected to
the credit of the Health Center Fund
provided that all moneys received for such
health center shall be deposited in the
treasury of the county to the credit of
the health center, and paid out only upon
warrants ordered drawn by the county court
of said county or counties upon the properly
authenticated vouchers of said official
organization.'

"Does the provision paid out only upon
warrants ordered drawn by the county court
give the county court a vested right to
control the fiscal policies of a public
health center formed under House Bill 280?
Does a county court have discretionary
powers under the above provision such that
the court may refuse to draw warrants upon
properly authenticated vouchers of the
county health center organization under
the grounds that the payment of such warrants
was not consistent with the county court's
opinion of the proper administration of
a public health center?"

House Bill No. 280, enacted by the 63rd General Assembly, is now incorporated in the Laws of Missouri, 1945, beginning at page 969, Sections 1 through 13, inclusive, Mo. R.S.A., Section 9854.101 through 9854.113, inclusive.

Section 9854.104, Mo. R.S.A., provides as follows:

"The location, building, maintenance and operation of said public county health center shall be vested in a bona fide organization of at least two hundred and fifty resident members, paying annual dues each of at least one dollar, be a corporate body, constitution and by-laws legally adopted and its officers legally elected and qualified, and when so formed, shall be the legal and official body in the county or counties for the promotion of health activities in said county or counties. It shall cooperate with the Division of Health of the Department of Public Health and Welfare or its successors and shall be empowered to enter into contracts and agreements with state and federal health authorities for the furtherance of all health activities, except as hereinafter prohibited. All personnel for the operation of the public health center shall be appointed and their compensation shall be fixed by the official organization. It shall have power to formulate, adopt and require such rules and regulations as may be needed for the operation of the center, not inconsistent with the laws of the state. It shall have exclusive control of the expenditures of all moneys collected to the credit of the health center fund provided that all moneys received for such health center shall be deposited in the treasury of the county to the credit of the health center, and paid out only upon warrants ordered drawn by the county court of said county or counties upon the properly authenticated vouchers of said official organization."

Basically, the question which you have presented calls for a determination as to which body has the ultimate power to control the expenditure of the moneys collected for the

county public health center fund as between the county court and the official health center organization.

In reading the above quoted section of the statutes, we note it provides that the official health center organization "shall have exclusive control of the expenditures of all moneys collected to the credit of a health center fund," and that said moneys which are to be deposited in the county treasury shall be paid out only upon warrants ordered drawn by the county court upon the properly authenticated vouchers of said official organization.

The language in the statute in referring to expenditure of moneys collected to the credit of the health center fund uses the term "exclusive control."

In Vol. 33, C.J.S., page 112, the word "exclusive" is defined as follows:

" * * * In its usual and generally accepted sense, as given by lexicographers, and in the ordinary speech of the people it means possessed to the exclusion of others; possessed and enjoyed to the exclusion of others; debarred from participation or enjoyment; not including, admitting, or pertaining to any other; * * * "

In the case of Temple Independent School District v. Proctor, 97 S.W. (2d) 1047, 1054, the Court of Civil Appeals of Texas, in considering the meaning of the term "exclusive control" as used in the statute giving a city adopting a home rule amendment exclusive control of the school system, said:

" * * * We think the language of subdivision 32 of article 1175, R.S., should be construed in the light of all these provisions, and carries with it the necessary implication that such 'exclusive control' means control to the exclusion of the control exercised by the county or state over other types of independent school districts authorized and provided for by the school laws; * * * "

By analogy, it would seem that the statute we are now considering gives the official health organization control over the expenditure of the health center moneys to the

exclusion of the control that the county court normally exercises over the expenditure of other funds.

In the case of State ex rel. Treasurer State Lunatic Asylum v. State Auditor, 46 Mo. 326, there was involved a proceeding in mandamus against the state auditor to require him to draw a warrant in favor of the asylum in accord with the requirements of an appropriation act. The manager of the asylum had drawn a requisition for making certain purchases and improvements in connection with the asylum that were authorized by law. In ordering the writ, the Supreme Court said at l.c. 327:

"The petition is demurred to, and the only question presented is whether the purchases and improvements in question are required, under the law, to be effected on credit or for cash in hand. The auditor's idea seems to be that the work, etc., is to be done on credit, and that he is to audit the bills, examining and passing upon the legality of the several items thereof, prior to the payment. The law does not impose upon him that burden. It intrusts the expenditure of the fund to the good faith and official responsibility of the asylum managers, who are the State's trustees, and who are accountable to the State for the expenditure of the fund intrusted to their hands in accordance with the requirements of the act of appropriation. The appropriation act contemplates but one requisition and one warrant. Its command is: 'The State auditor is hereby authorized and required to draw his warrant for the above sums of money appropriated, on the requisition of the board of managers of the State lunatic asylum.' It is not for the auditor to go back of the requisition."

The case we have found most nearly in point with the situation which you have presented is State ex rel. Holman v. Trimble, 293 S.W.98, 316 Mo. 1041. In this case the Supreme Court was considering the identical question which you have presented in a situation involving a dispute between the county court of Callaway County and the trustees of the county hospital concerning the expenditure of hospital funds collected and deposited in the county treasury. Even the relevant statutes

then before the court were similar to those relating to the public health center which we are now considering. Regarding the facts the hospital trustees had requested the county court to draw a warrant in favor of a person who had performed work and labor in the erection of the hospital. The county court refused to draw the warrant and a petition in mandamus was filed. In ruling on the question, the court at S.W. 1.c. 101, said:

"The section then provides that trustees shall receive no compensation; that they shall adopt by-laws, rules, and regulations for their own guidance.

"'They shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and of the purchase of site or sites,' for the 'construction of any hospital building or buildings,' etc.

"And then:

"'Provided, that all moneys received for such hospital shall be deposited in the treasury of the county to the credit of' the treasurer of 'the hospital fund, and paid out only upon warrants * * * drawn by the county court * * * upon the properly authenticated vouchers of the hospital board.'

"The Court of Appeals construed these statutes to mean that hospital trustees have exclusive control of the expenditure of moneys collected to the credit of the hospital fund. The natural interpretation of that language excludes the intervention of any other official in determining what claims are to be paid and what accounts ought to be allowed. The plain words mean that full discretion is vested in the hospital board to pass upon and determine the validity of every claim presented. Relators call attention to the provision that the money must be deposited in the treasury of the county and must be paid out only upon warrants drawn by the county court, and argue that the county court is thus vested with some discretion, some function to determine whether or not the claims presented

are valid, but the same sentence of the statute goes on to say that such payments are made upon properly authenticated vouchers of the hospital board. That seems to leave no doubt that the only judgment exercised by the county court is to determine whether the vouchers presented show proper authentication of the hospital board, and whether they are for purposes within control of the hospital board and for the purposes of the above statute. * *"

Considering the above decision and its application to the question which you have presented, it would seem that the natural interpretation of the language of Section 9854.104, supra, vesting exclusive control of the expenditure of moneys collected to the credit of the health center in the health center organization, excludes the intervention of any other official or body in determining what claims are to be paid and what accounts are to be allowed. It appears that the full discretion is vested in the health center organization to pass upon and determine the validity of every claim presented, and it is the duty of the county court when a properly authenticated voucher is presented to it by said organization to issue a warrant therefor, and the only judgment that the county court may exercise is to determine whether the vouchers presented show proper authentication of the health center organization and whether they are for purposes within control of the health center organization as are set out in the statute.

CONCLUSION

It is therefore the opinion of this department that the county court has no control over the expenditure of moneys collected to the credit of the county public health center, but that said control over the expenditure of these moneys is exclusively vested in the health center organization. When the county court receives a properly authenticated voucher from the official health center organization to cover an expenditure for a purpose within the control of said organization, then a warrant must be issued.

Respectfully submitted,

APPROVED:

RICHARD F. THOMPSON
Assistant Attorney General

J. E. TAYLOR
Attorney General

JET:VLM