

March 31, 1964

Opinion No. 75 Answered by Letter
(Eichhorst)

Mr. Proctor N. Carter
Director
Division of Welfare
Jefferson City, Missouri



Dear Mr. Carter:

This is in answer to your letter requesting an opinion of this office as to whether or not the purchase of drugs and medicines from a physician and payment of a \$1.00 handling charge falls within the prohibition against the payment of "physician's fees" in Subsection 6 of Section 208.150, RSMo Cum. Supp. 1963.

The subsection reads as follows:

"Any individual entitled to receive care or services under this section may obtain such care and services from any provider of services with which an agreement is in effect under this section and which undertakes to provide him such care and services, but such agreement shall not include the payment of the attending physician's fees but does include dental fees and services, as authorized by the division of welfare."

This subsection prohibits the payment of the "attending physician's fees". However, there is no prohibition of the payment of charges for physician's services. The limiting language used in the statute of "physician's fees" shows a legislative intent to prohibit only the payment of the doctor's professional examination and attendance charges. This language likewise shows an intent to exclude from its orbit the dispensing of drugs which the doctor may decide to prescribe or may direct the patient to procure. Indeed, the filling of his own prescriptions is a distinct service that may be performed by the physician as provided for by Section 238.010, RSMo 1959.

Mr. Proctor N. Carter

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Therefore, it is the opinion of this office that the cost of drugs, together with a nominal handling charge of \$1.00 paid to an attending physician who dispenses his own drugs, is not to be considered "physician's fees" as that term is used in Sub-section 6 of Section 208.150, RSMo Cum. Supp. 1963.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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