



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

SEP 24 2013
OPINION 13-0127

13 CORONERS

Hon. Kenneth Pickett, Sr.
Mayor, Town of Mansura
P.O. Box 157
Mansura, LA 71350

La. R.S. 13:5706; 28:53; 28:141; 28:147
La. Atty. Gen. Op. Nos. 80-1538, 96-383, 99-381, 05-0220, 09-0144, 09-0312,
11-0031

When a deceased resides within the geographic limits of an incorporated municipality, the municipality must bear the costs of laboratory fees associated with that person's autopsy. However, when an individual resides outside of the geographic limits of an incorporated municipality, the parish must bear the costs of laboratory fees associated with that person's autopsy. In contrast, the parish alone is responsible for the fees associated with a coroner's commitment.

Dear Mayor Pickett:

You have requested an opinion from this office regarding the proper assessment of certain fees charged to the Town of Mansura ("Town") related to coroners' inquiries into causes of death, as well as commitment fees. Specifically, you note that the Avoyelles Parish Police Jury ("Police Jury") has assessed fees for toxicology reports and coroners' commitments. You have also asked that we review and reconsider an opinion issued by this office – La. Atty. Gen. Op. No. 11-0031 – as you believe that it conflicts with earlier opinions and the law. Your specific questions are presented and answered below.

Is the Town of Mansura responsible for reimbursing the Police Jury for the costs of toxicology reports for individuals who die in Mansura?

Pursuant to La. R.S. 13:5706(A)(1)(c), coroners are entitled to reimbursement for "the costs of any laboratory tests actually incurred" during the performance of an autopsy. In contrast to the reimbursement issues discussed below, this provision does require, in certain situations, reimbursement for such expenses from the municipality. This law, however, provides no direct guidance regarding when such costs are to be borne by a parish and when by a municipality. However, a review of previous opinions of this office that considered fee obligations under this statutory provision are instructive in this regard.

In La. Atty. Gen. Op. No. 09-0144, we examined another portion of La. R.S. 13:5706 with similar language to determine which entity must bear the costs of the burial of paupers.¹ In that opinion, we reasoned that:

As to the question of which entity, the parish or the municipality of death, is responsible for the costs of the burial of paupers, it is the opinion of this

¹ La. R.S. 13:5706 is a redesignation of La. R.S. 33:1556, the latter of which is referred to in the earlier opinions noted here.

Office that it is reasonable to interpret La. R.S. 33:1565 thus: for those who have died within the legal geographic limits of an incorporated municipality, it is the municipality's responsibility to bear the costs of the burial of the remains. For those who have died outside of the legal geographic limits of any incorporated municipality, it is the parish's responsibility to bear the costs of the burial of the remains. See also, La. Atty. Gen. Op. No. 80-1536.

A similar conclusion, though without the benefit of an analysis, was reached as to expenses similar to those raised by your questions in La. Atty. Gen. Op. No. 09-0312. Thus, based on our previous reviews of similar language in the same statute as the one that is the subject of your request, we are of the opinion that, when a deceased resides within the geographic limits of an incorporated municipality, the municipality must bear the costs of laboratory fees associated with that person's autopsy. However, when an individual resides outside of the geographic limits of an incorporated municipality, the parish must bear the costs of laboratory fees associated with that person's autopsy. Thus, the Town will be responsible for the costs of toxicology reports for deceased individuals that reside within the geographic limits of the Town.

Is the Town of Mansura responsible for reimbursing the Police Jury for the costs of coroners' commitment fees?

Similar questions to this one have been asked of this office in the past. Particularly, La. Atty. Gen. Op. Nos. 96-383, 99-381, and 05-0220 have examined similar issues. What we have identified from reviewing these opinions is that two of these opinions found that municipalities are responsible for coroners' commitment fees when the committed person resides in an incorporated municipality and that parishes are responsible when the committed person resides outside of an incorporated municipality, and one of these opinions found the parish alone to be responsible for such fees.² Our analysis of the applicable law supports the latter conclusion.

The obligations for the payment of coroners' fees for commitments are located in three places in the Revised Statutes. Louisiana Revised Statute 13:5706(B)(3), La. R.S. 28:53(G)(6), and La. R.S. 28:141 are consistent with one another in requiring the parish to pay the coroners' fees for commitments. However, apparently relying on other portions of La. R.S. 13:5706, La. Atty. Gen. Op. Nos. 99-381 and 05-0220 have concluded that for individuals residing in an incorporated municipality, it is the municipality's obligation to pay the commitment fees and for those residing in unincorporated portions of a parish, it is the parish's obligation to pay the commitment fees.

² Both La. Atty. Gen. Op. Nos. 99-381 and 05-0220 contain conclusions dividing the fee responsibilities between municipalities and parishes, whereas La. Atty. Gen. Op. No. 96-383 recognizes that the parishes are solely responsible for the payment of such fees.

Louisiana Revised Statute 28:53(G)(6) specifically provides for commitment fees to be paid to the coroner by the parish governing authority thusly (emphasis added):

When a person is confined in a treatment facility other than a state mental institution, the examining coroner in the parish where the patient is confined shall be entitled to the usual fee paid for this service to the coroner of the parish in which the patient is domiciled or residing. When a person is confined in a state mental institution in a parish other than his parish of domicile or residence, the examining coroner shall be entitled to the fee authorized by law in his parish for the service. In either case, *the fee shall be paid and accurate records of such payments kept by the governing authority of the parish* in which the patient is domiciled or residing from parish funds designated for the purpose of payment to the coroner.

Louisiana Revised Statute 13:5706 contains similar language for commitment matters. In La. R.S. 13:5706(B)(3), states that (emphasis added):

The parish shall pay the fees for all mental or physical examinations or investigations, commitments, interdictions, court attendance, or testimony and a just fee or remuneration for attending parish prisoners.

As with La. R.S. 28:53(G), La. R.S. 13:5706(B)(3) squarely places the obligation to pay commitment fees with the parish and not with a municipality. However, La. R.S. 13:5706(A)(3) states that (emphasis added):

The coroner shall receive a reasonable fee or compensation, as agreed to by the coroner and the governing authority of the parish or municipality, for any physical or mental examination or investigation when requested by the district attorney, any judge, sheriff, chief of police, or by any responsible citizen or resident when acting in good faith in an emergency and in the furtherance of the public good and safety.

Although this provision, which provides for reimbursement to the coroner for mental or physical examinations, seems to conflict with both La. R.S. 13:5706(B)(3) and La. R.S. 28:53(G)(6), we are of the opinion that such is not the case. This provision does not contemplate commitments. Thus, with the explicit language present in La. R.S. 13:5706(B)(3) and La. R.S. 28:53(G)(6) as to the responsibility of parishes to reimburse the fees for commitments, it is our opinion that these two specific laws control and that such costs are not to be borne by municipalities.³ To the extent that the earlier opinions of this office have suggested that municipalities are responsible for a coroner's commitment fees, we hereby repudiate those conclusions.

³See also La. R.S. 28:141, *infra*.

Does La. Atty. Gen. Op. No. 11-0031 conflict with earlier Attorney General's Opinions or the law?

A review of La. Atty. Gen. Op. No. 11-0031 indicates that it is not an incorrect read of the law, it is simply incomplete. In La. Atty. Gen. Op. No. 11-0031, we stated that the commitment fees incurred by a coroner must be borne by the "...governing authority of the parish in which the patient is domiciled or residing from parish funds..."⁴ This answer is not incorrect. However it is not complete, as it does not consider the possibility that the government, in any capacity, may not have to bear the costs of the commitment fee. In this regard, La. R.S. 28:141 states, in pertinent part, that,

If financially able, the patient or his legally responsible relative shall pay the costs of commitment, including examination fees, expenses incurred in calling witnesses, fees of counsel for the patient, and fees of the commission, otherwise the parish of domicile in the case of a resident or the division in the case of a non-resident shall pay these costs.

Thus, the first responsibility for the coroners' commitment fee is to be borne by "the patient or his legally responsible relative" and not by the parish governing authority. Inasmuch as this requirement was missed in La. Atty. Gen. Op. No. 11-0031, we here amend that opinion by noting this requirement. However, in the event that "the patient or his legally responsible relative" is "financially [un]able" to pay the commitment fee, then La. R.S. 13:5706 and La. R.S. 28:53, apply and it is the responsibility of the parish governing authority "in which the patient is domiciled or residing from parish funds" to pay the commitment fees.⁵ It is our opinion that, in this event, consistent with La. Atty. Gen. Op. No. 11-0031, such costs must be borne by the parish and not by the Town.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance please do not hesitate to contact our office.

Sincerely yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: _____

RYAN M. SEIDEMANN
Assistant Attorney General

JDC/RMS/tp

⁴ La. R.S. 28:53(G)(6) (in pertinent part).

⁵ It is important to note that this provision also refers to "the division" as the responsible party for paying for the coroners' commitment fees of non-residents. Although not defined in the law, the editor's comments to La. R.S. 28:147 suggest that "division" is intended to refer to the "Division of Hospitals" within the Louisiana Department of Health and Hospitals ("DHH"). This latter law provides DHH with special authority for recouping such costs from the patient or the patient's responsible parties.