

3646

1. HOSPITAL—OHIO TUBERCULOSIS—SECTIONS 339.20, 3701.60 ET SEQ., RC—CONSIDERED IN PARI MATERIA AS TO EXPENSE, CARE AND TREATMENT OF PATIENTS INDICATE THE PATIENTS OR PERSONS LEGALLY RESPONSIBLE FOR SUPPORT SHOULD REIMBURSE THE COUNTY FOR COST OF HOSPITALIZATION IF FINANCIALLY ABLE.
2. COUNTY COMMISSIONERS—MAY INVESTIGATE FINANCIAL STATUS OF APPLICANTS FOR ADMISSION TO OHIO TUBERCULOSIS HOSPITALS AND THOSE LEGALLY RESPONSIBLE FOR SUPPORT OF APPLICANTS—IN PROPER CASES REIMBURSEMENT MAY BE REQUIRED AS CONDITION OF APPROVAL OF APPLICANTS FOR ADMISSION TO HOSPITAL.
3. REIMBURSEMENT — CONDITIONS WHERE PATIENT SUBSEQUENTLY FOUND NOT TO HAVE HAD TUBERCULOSIS BUT CONTINUED IN HOSPITAL AS TEMPORARY PATIENT—EXPENSE—STATE FUNDS AVAILABLE TO HOSPITAL—SECTION 3701.65 RC.

SYLLABUS:

1. The provisions of Section 3701.60, et seq., Revised Code, relative to the expense of care and treatment of patients admitted to the Ohio tuberculosis hospital, and of Section 339.20, Revised Code, relative to the expense of care and treatment of patients in local tuberculosis hospitals, considered in *pari materia*, indicate a legislative policy that such patients, or persons legally responsible for their support, should be required to reimburse the county for the cost of hospitalization in such institutions if they are financially able to do so.

2. The county commissioners may investigate the financial status of applicants for admission to the Ohio tuberculosis hospitals, and of persons legally responsible for the support of such applicants, and may require such reimbursement in proper cases as a condition of their approval of applications for admission to such hospital.

3. Where a patient in the Ohio tuberculosis hospital has been admitted therein without a requirement by the county commissioners of such reimbursement, and where no such reimbursement arrangement is currently in operation, and where such patient is subsequently found not to have tuberculosis but is continued temporarily in a patient status under the provisions of Section 3701.65, Revised Code, the expense of such continued hospitalization is to be met from state funds available to such hospital.

Columbus, Ohio, March 26, 1954

Dr. John D. Porterfield, Director, Ohio Department of Health
Columbus, Ohio

Dear Sir :

I have before me your letter requesting my opinion and reading as follows :

“The 100th General Assembly of Ohio enacted new section 3701.65 of the Revised Code which became effective October 21, 1953.

“This new section of law provides that when a patient is admitted to the Ohio Tuberculosis Hospital and is found not to have tuberculosis the county commissioners of the county in which the patient resides shall no longer be billed for care and treatment of said patient except when the county is being reimbursed in full for the cost of hospital care.

“You will note that the statute is silent as to the payment of cost of hospital care when the patient is not reimbursing the county in full.

“I should like to receive your formal opinion on the following two questions :

“ ‘When a patient, who has not agreed to reimburse the county in full for the cost of hospital care, is admitted to the Ohio Tuberculosis Hospital under the provisions of section 3701.63 of the Revised Code and is found not to have tuberculosis, does the full cost of such hospital care become the legal responsibility of the patient?’ ”

“If the patient is legally responsible for the full cost of hospital care, shall the Ohio Tuberculosis Hospital invoice the patient for such care at the per diem rate determined by the Director of Health pursuant to the provisions of section 3701.64 of the Revised Code?’ ”

The statutes relative to the Ohio Tuberculosis Hospital are comprised in Section 3701.60 to 3701.65 inclusive, of the Revised Code, 1236-22 to 1236-26 G. C. Section 3701.63, Revised Code, reads as follows :

“The Ohio tuberculosis hospital shall be *open* to any legal resident of this state *having or suspected of having tuberculosis* and requiring care and treatment in a tuberculosis hospital, *subject*

to the admission requirements established by the department of health.

“Application for admission to said hospital shall be made to the director of health. Such application shall be subject to the recommendations of the health commissioner of the health district in which the applicant lives and the medical superintendent of the approved district, county, or municipal tuberculosis hospital for the area in which the applicant lives. The application for admission to said hospital shall be approved by the board of county commissioners of the county in which the applicant lives.”

(Emphasis added.)

Section 3701.64, Revised Code, reads as follows :

“The charge for care and treatment of patients admitted to the Ohio tuberculosis hospital *shall be borne by the county* in which such patient lives. *Such charge shall be at the per diem rate determined by the director of health.* The director shall certify to the auditor of state the amounts due from each county for the care and treatment of patients hospitalized under sections 3701.60 to 3701.64, inclusive, of the Revised Code. The auditor of state shall transmit to the board of county commissioners of each such county a statement of the amount due for such care and treatment less a credit of one dollar and twenty-five cents per patient per day.

“All moneys received by the state for such care and treatment at such hospital shall be paid into the state treasury.”

(Emphasis added.)

Section 3701.65, Revised Code, to which you call special attention, was enacted as a supplement to the other statutes relating to this institution and became effective October 21, 1953. That sections reads as follows :

“When a patient, admitted to the Ohio tuberculosis hospital under the provisions of section 3701.63 of the Revised Code, is found not to have tuberculosis, *the county commissioners* of the county in which the patient resides *shall no longer be billed* for care and treatment of said patient *except when the county is being reimbursed in full* for the cost of hospital care.

“*Such a non-tuberculous patient may continue to receive hospital care for a period of reasonable length* as may be recommended by the medical superintendent, when beneficial treatment can be applied.

Such a non-tuberculous patient shall not receive hospital

care for indefinite and prolonged periods of time for the treatment of chronic or incurable non-tuberculous disease.”

(Emphasis added.)

1. Your first question is as to the personal liability for hospital care of a patient who has been found not to be tubercular. This involves the interpretation of the statutes relating to the Ohio Tuberculosis Hospital, and particularly the effect, if any of the new Section 3701.65, Revised Code.

Except for such implication as may be found in the supplemental statute last mentioned, there is no provision for payment for the care and treatment of a patient admitted to this hospital by anyone except the county commissioners of the county of residence. It will be observed that Section 3701.63 supra, says that the hospital shall be *open to any* legal residents of the state “*having or suspected of having tuberculosis.*” Applications for admission are subject to the recommendation of the health commissioner of the health district in which the applicant lives and the medical supervisor of the approving district, county or municipal hospital for the area in which the applicant lives. Application must also be approved by the board of county commissioners of the county of residence.

Section 3701.64 says that “the charge for care and treatment of patients admitted to the Ohio Tuberculosis Hospital shall be borne by the county in which such patient lives.” This section further requires that the Auditor of State shall transmit to the board of county commissioners of each county a statement of the amount due for such care and treatment, less a credit of \$1.25 per patient per day.

Section 3701.65 appears to provide for the termination of the county's liability if it is found that the patient who was admitted because he was suspected of having tuberculosis does not in fact have the disease. When this fact is determined, then “the county commissioners * * * shall *no longer* be billed for care and treatment of said patient except when the county *is being* reimbursed in full for the cost of hospital care.”

In this statutory language there is the clear implication that the county authorities are to be reimbursed by the patient, or by those legally responsible for his support and care, where such patient or responsible parties are financially able to do so; and the words “is being reimbursed”

rather plainly indicate that arrangements for such reimbursement have been put into effect prior to the time at which the patient concerned "is found not to have tuberculosis."

As to the authority for such reimbursement arrangement, in the case of patients in the Ohio tuberculosis hospital, in my opinion No. 1397, Opinions of the Attorney General for 1952, p. 324 (328), I expressed the opinion that the statutes here in question, former sections 1236-25 and 1236-26, General Code, were to be considered in pari materia with the statutes relating to the support of patients in tuberculosis hospitals operated by local authorities, former section 3139, et seq., General Code, in determining "the general policy of the legislature."

The general policy of the law relative to the treatment of patients in tuberculosis hospitals, and charges therefor, is shown by the provisions of the statute relative to county and district tuberculosis hospitals. Section 339.30, Revised Code, expressly authorizes the board of trustees of such hospital to require payment from any patient, not exceeding the actual cost of care and treatment in so far as he is able to pay, and authorizes the trustees to fix the amount of such payment. A somewhat similar provision is found in Section 339.06, Revised Code, as to patients in the general hospital of a county.

We have already noted that applications for admission to the Ohio tuberculosis hospital are subject to the recommendation of designated local health officials and must be approved by the local county commissioners. Quite clearly one of the matters of interest in such case is financial, for the commissioners must find the funds to meet the expense for which they will be billed by the state hospital. They are, therefore, in a position to investigate the financial ability of the patient, and others legally responsible for his support, to reimburse the county to the extent pointed out in my 1952 opinion, supra, and to insist in proper cases that arrangements therefor be made as a condition of their approval of the application. For this reason, and in view of the general legislative policy in the matter of such reimbursement, I am impelled to the view that such in part was the legislative purpose in providing for such approval by the commissioners.

Where this legislative purpose is followed, therefore, it will be seen that in each instance in which a determination is made by the Ohio tuberculosis hospital authorities that a patient does not have tuberculosis,

a determination will already have been made at the local level as to the patient's financial ability to reimburse the county. This circumstance thus suggests the reason for the provision, already noted in Section 3701.65, Revised Code, for a continuation of the billing to the commissioners only in the event a reimbursement arrangement is currently in effect; and such provision considered in relation to the absence of any mention of any other means of collecting the expense of hospitalization from any other source suggests also that where the local authorities have not found the patient able to reimburse the county, the expense of continued hospitalization shall be borne by the Ohio tuberculosis hospital from funds otherwise available to it.

Accordingly, in specific answer to your inquiry, it is my opinion that:

1. The provisions of Section 3701.60, et seq., Revised Code, relative to the expense of care and treatment of patients admitted to the Ohio tuberculosis hospital, and of Section 339.20, Revised Code, relative to the expense of care and treatment of patients in local tuberculosis hospitals, considered in *pari materia*, indicate a legislative policy that such patients, or persons legally responsible for their support, should be required to reimburse the county for the cost of hospitalization in such institutions if they are financially able to do so.

2. The county commissioners may investigate the financial status of applicants for admission to the Ohio tuberculosis hospital, and of persons legally responsible for the support of such applicants, and may require such reimbursement in proper cases as a condition of their approval of applications for admission to such hospital.

3. Where a patient in the Ohio tuberculosis hospital has been admitted therein without a requirement by the county commissioners of such reimbursement, and where no such reimbursement arrangement is currently in operation, and where such patient is subsequently found not to have tuberculosis but is continued temporarily in a patient status under the provisions of Section 3701.65, Revised Code, the expense of such continued hospitalization is to be met from state funds available to such hospital.

Respectfully,

C. WILLIAM O'NEILL

Attorney General