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1. HOSPITAL — WHERE INDIGENT PATIENT TRANSPORTED IN AMBULANCE, TO AND FROM HOSPITAL— WHEN COST SHOULD BE PAID BY TOWNSHIP — “SERVICES OF A HOSPITAL” — SECTION 3480-1 G. C.
2. WHEN COST OF SUCH TRANSPORTATION SHOULD BE PAID BY LOCAL RELIEF AUTHORITY — SECTION 3391-2 G. C.

SYLLABUS:

1. *When a hospital as a part of its services has furnished ambulance services for the transportation of an indigent patient to or from such hospital, such services are “services of a hospital” within the meaning of Section 3480-1, General Code, and the cost thereof should be paid by the township in the manner and to the extent provided in such section.*

2. *When a local relief authority has, in the manner provided in Section 3391-2, General Code, determined that ambulance services for the conveyance of an indigent to or from a hospital are necessary for his subsistence the cost thereof should be paid from the poor relief funds of such authority, except where such services are a part of the services of a hospital.*

Columbus, Ohio, September 7, 1940.

Hon. George E. Gerhardt, Prosecuting Attorney,
Circleville, Ohio

Dear Sir:

I am in receipt of your communication which reads as follows:

“There has arisen a question in this County since the passage of the ‘new relief laws’ by the Legislature in 1939 in regards to who shall provide for ambulance services, the townships or the county local relief area.

Sections 3476 to 3496 provide for the charity of poor relief and also provide for hospital and medical services but they do not provide for ambulance services. I feel that this question is one of sufficient and of State wide interest as well as County interest in this County, therefore I thought I should inquire of you as to your opinion in this matter.

To specifically state the question: ‘Is it the duty of the townships by their trustees to assume the payment of ambulance services or should this burden be assumed by the county relief area.’”

Your inquiry arises by reason of the enactment of House Bill No. 675 by the Ninety-third General Assembly and codified as Section 3391, et seq., General Code, wherein the term “poor relief” is defined but does not include what is popularly known as “hospitalization.”

In an opinion rendered by me under date of September 13, 1939, found in the Opinions of the Attorney General for 1939, Vol. II, page 1732, I ruled as stated in the first branch of the syllabus:

“The enactment of House Bill No. 675 by the Ninety-third General Assembly did not alter the duties imposed by Section 3480-1, General Code, on boards of township trustees to furnish services of a hospital to needful indigent persons having a legal settlement in such township.”

In another opinion rendered by me on July 27, 1939, found in the Opinions of the Attorney General for 1939, Vol. II, page 1334, it was held in the second branch of the syllabus:

“Since the enactment of House Bill No. 675 by the Ninety-third General Assembly, which act provides a complete system for the dispensing of poor relief, including that formerly dispensed by boards of township trustees under authority of Section 3476, General Code, the provisions of House Bill No. 675 supersede those of Section 3476, General Code, with reference to the duties of township trustees, and take away from boards of township trustees the powers and duties formerly possessed by them under authority of such Section 3476, General Code.”

Said opinion holds in effect that since the enactment of the above sections the sole duty of township trustees with respect to relief for indigents, is to furnish the services of a hospital to such indigents. Therefore, if ambulance services can be said to be included within the term “services of a hospital,”

it would follow that the township trustees are charged with the duty of paying the ambulance costs.

The duty of the boards of township trustees to furnish services of a hospital to indigents is contained in Section 3480-1, General Code, which reads:

“When an indigent person requiring medical services or the services of a hospital, in cases other than contagious, has a legal settlement in a municipality or township within the same county but other than that in which the service is rendered, and such person is unable to pay the expenses of such service, the county, municipality or township rendering such service shall notify, in writing, the proper officials of the municipality or township of legal settlement of such person that services are being rendered. Such written notice shall be sent within three days if the fact of non-residence is disclosed upon the beginning of such service or admission to such hospital, or within three days after discovery of such fact if the same be not disclosed as above. Thereupon the municipality or township of legal settlement shall be liable for such services at the established rate of the county, municipality or township rendering such service and shall pay for the same within thirty days after date of the sworn statement covering such expenses, which sworn statement shall be sent to the proper officials of the municipality or township of legal settlement within twenty days after the discharge of such person. If the notice of such service be not sent to the municipality or township of legal settlement within three days after the disclosure by such person or the discovery of such non-residence, such municipality or township shall be liable only after the receipt of such notice. Nothing herein contained shall prevent the removal of such person, or the assumption of care of such person, by the municipality or township of legal settlement, at its expense, but such removal or assumption shall not relieve such municipality or township from liability for the expenses theretofore incurred by the county, municipality or township rendering such service. The municipality or township of legal settlement is hereby subrogated to all the rights of the county, municipality or township rendering such service to such person.”

In the determination of the question at hand an examination of Section 3391, General Code, should be made. In that section “poor relief” has been defined in part as follows:

“Food, clothing, shelter and other commodities and *services necessary for subsistence* * * *” (Emphasis mine.)

From the language of Section 3480-1, General Code, above quoted, it would appear that if the transportation of the patient to and from the hospital is a part of the services of the hospital, that is as an incident of the

hospital services furnished to the patient as distinguished from an independent service performed by some person or corporation, the cost thereof would be payable from township or municipal funds as distinguished from "poor relief" funds. However, there is no language in such section which purports to authorize the township trustees or the municipality to pay for ambulance service unless it is part of the services of a hospital. In *Edwards vs. West Texas Hospital* (Texas), 89 S. W. 2d 801, 805, the Court held that the term "hospitalization" included all of the services furnished by the hospital for the care or treatment of a patient, including that of staff nurses, physicians and surgeons, such services being incidents of the services of a hospital. Since the Ohio statute uses the specific phrase "services of a hospital", I am of the opinion that any service furnished by the hospital to the patient as an incident of the care or treatment of a patient entrusted to it is a part of its services and may be paid for by a township under authority of Section 3480-1, General Code. It could scarcely be urged that the delivery of a person in need of hospital services may not be a service incidental to its performance of its duties of the care and treatment of persons entrusted to its care.

The answer to your inquiry as to whether the expense of ambulance service for a person who is indigent, not as a part of the services of a hospital, may be paid from poor relief funds. It is elemental that unless such services come within the meaning of poor relief, as that term is defined in Section 3391, General Code, it may not be paid from poor relief funds. Poor relief is therein defined to mean "food, clothing, shelter, and other commodities and services furnished at public expense to persons in their homes". The statute states that it "may take the form of 'work relief', 'direct relief', or 'medical care'". The terms "direct relief" and "work relief" are not definitive of relief but of the manner of dispensation. In the case of direct relief there is a pure gift or gratuity. In the case of work relief the recipient must perform services in return for the grant. However, under the term "medical care" as including only "medicines and the services, wherever rendered, of a physician or surgeon or the emergency services of a dentist, furnished at public expense". It would thus appear that ambulance services could scarcely be included within the term medical care, nor could they be considered as food, clothing, shelter or other commodities. It must be noted that the statute also includes "services necessary for subsistence" within the term poor relief. The statute does not specify what type of services may be necessary for the subsistence of an indigent. Section 3391-2, General

Code, places the duty of determining such need in the local relief authority. In defining the powers and duties of such authorities the legislature has used the following language:

“In each local relief area, subject to the provisions of law, poor relief shall be furnished by the local relief authority to all persons therein in need of such poor relief. As required by the condition of the applicant, such poor relief may afford either partial or total, temporary or continuing support. Poor relief shall be dispensed on a budgetary basis, and may be furnished either in the form of cash, or commodities and services, or both. Poor relief shall be granted only after sworn application therefor and proper home investigation to ascertain facts of need and available means of support. * * * ”

In view of the above statutory provisions, I am of the opinion that, when the local relief authority in the manner provided by Section 3391-2, General Code, has determined that ambulance service for the purpose of conveying an indigent to a hospital is necessary for the subsistence of said indigent, such service, so furnished, constitutes poor relief and its cost may be paid from poor relief funds under authority of Sections 3391, et seq., General Code.

Specifically answering your inquiry, it is my opinion that:

1. When a hospital as a part of its services has furnished ambulance services for the transportation of an indigent patient to or from such hospital, such services are “services of a hospital” within the meaning of Section 3480-1, General Code, and the cost thereof should be paid by the township in the manner and to the extent provided in such section.

2. When a local relief authority has, in the manner provided in Section 3391-2, General Code, determined that ambulance services for the conveyance of an indigent to or from a hospital are necessary for his subsistence the cost thereof should be paid from the poor relief funds of such authority, except where such services are a part of the services of a hospital.

Respectfully,

THOMAS J. HERBERT,
Attorney General.