

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.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

949.

MEDICAL OR HOSPITAL SERVICE—OTHER THAN CONTAGIOUS—WHEN PERSON HAS NO LEGAL SETTLEMENT IN COUNTY WHERE SERVICE PERFORMED—IF COUNTY, MUNICIPALITY OF TOWNSHIP FAILS TO SEND WITHIN THREE DAYS WRITTEN NOTICE TO COUNTY COMMISSIONERS WHERE PERSON HAS LEGAL SETTLEMENT—FOREIGN COUNTY ONLY LIABLE FOR SERVICES PERFORMED AFTER RECEIPT OF NOTICE—NON-RESIDENT.

SYLLABUS:

Under the provisions of section 3484-2, General Code, if a county, municipality or township renders medical or hospital services, in cases other than contagious, to a person who has a legal settlement in a county other than the one in which such service is rendered and such county, municipality or township fails to send written notice to the county commissioners of the county of legal settlement within three days after disclosure by such person or discovery of such non-residence, the county of legal settlement is liable only for those services rendered after receipt of notice.

COLUMBUS, OHIO, July 27, 1939.

HON. D. HARLAND JACKMAN, *Prosecuting Attorney, London, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion on the following:

“General Code Section 3484-2 contains the following language:

‘If the notice of the rendering of such service, required to be sent by the county, municipality, or township rendering the

same, be not sent within three days after the disclosure by such person or the discovery of such non-residence, the county of legal settlement shall be liable only after receipt of such notice.'

Does that language taken together with the other provisions in the section indicate that the county is only responsible for the expenses incurred after the proper notice has been given or does it indicate that a legal responsibility arises even though the services have been complete for many months and the county of actual residence had no knowledge whatever of them while they were being rendered?"

Section 3484-2, General Code (House Bill No. 290, 93rd General Assembly), with which your inquiry is concerned, reads as follows:

"When a person requiring medical services or the services of a hospital, in cases other than contagious, has a legal settlement in a county other than the one in which such service is rendered, and is unable to pay the expenses of such service, and such service is rendered by a county, municipality or township, the county, municipality or township rendering such service shall notify in writing the county commissioners of the county of legal settlement that such service is 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 the discovery of such fact, if the same be not disclosed as above. Within twenty days after the discharge of such person, or the rendering of the last service, the county, municipality or township rendering such service shall send a notice thereof, and a sworn statement of its expenses, at the established rate of the county, municipality or township therefor, to the county commissioners of the county of legal settlement. Thereupon the county of legal settlement shall be liable to the county, municipality or township rendering such service for the expenses of such service, including hospital service, at the established rate of the county, municipality or township therefor, and shall pay for the same within thirty days after date of the sworn statement of expenses. If the notice of the rendering of such service, required to be sent by the county, municipality or township rendering the same, be not sent within three days after the disclosure by such person or the discovery of such non-residence, the county of legal settlement shall be liable only after the receipt of such notice. Nothing herein contained shall prevent the removal or assumption of care of such person by the county of legal settlement, at its expense, but such removal or assumption shall not relieve such county of

liability for the expenses theretofore incurred by the county, municipality or township rendering such service. The county of legal settlement is hereby subrogated to all the rights of the county, municipality or township rendering such service to such person.”

Under the provisions of that section, the county of legal settlement of a person who is unable to pay for medical and hospital care rendered to such person, in cases other than contagious, in another county, is liable to the political subdivision of such other county for the services so rendered. This liability, however, is not absolute. The statute requires the political subdivision which renders the service to notify in writing the county commissioners of the county of legal settlement within three days if the fact of nonresidence is disclosed upon the beginning of the service or admission to the hospital, or within three days after discovery of such non-residence, that such service is being rendered. In addition to that notice, the law provides that the subdivision rendering the care shall transmit a sworn statement of its expenses to the county commissioners of the county of legal settlement within twenty days after such person is discharged or the last service rendered. At that time the county of legal settlement “shall be liable to the county, municipality or township rendering such service for the expenses of such service.”

As shown above, the liability of the county of legal settlement is conditioned upon strict compliance with the provisions of section 3484-2, supra. The statute itself recognizes this limited liability by its very terms, to-wit:

“If the notice of the rendering of such service, required to be sent by the county, municipality or township rendering the same, be not sent within three days after the disclosure by such person or the discovery of such non-residence, the county of legal settlement shall be liable only after the receipt of such notice.”

That sentence is in the nature of a proviso which is defined in 37 O. Jur., page 784:

“A proviso has been defined as ‘a clause added to the statute or to a section or part thereof, which introduces a condition or limitation upon the operation of the enactment, or makes special provision for cases excepted from the general provisions of the law, or qualifies or restrains its generality or excludes some possible ground of misinterpretation of its extent.’ ”

At page 785 of the same text, it is said :

“A proviso is generally used in a statute to qualify, limit, or restrain the operation of general terms contained in a previous part of the section or act, or to except or exempt certain specified acts or persons from the operation of the general provisions of the statute.”

In providing for the liability of a county of legal settlement, it appears it was the intent of the Legislature that the county of legal settlement should be notified at the earliest possible time of any service which another political subdivision might be affording to persons having a legal settlement in said county as defined in sections 3477 and 3479, General Code. An early notice would afford such county an opportunity to remove or assume the care of such person if it were so inclined or felt that such action would lessen the expense involved. The proviso above mentioned places a condition or limitation upon the liability of the county of legal settlement. Further, it insures that the county of legal settlement will be given prompt notice of any care being rendered to its residents by other political subdivisions. If the political subdivision rendering the service does not give notice, under either of the circumstances set forth in section 3484-2, supra, the county of legal settlement will be liable only from the time it actually receives some notice. To interpret section 3484-2 otherwise would permit a political subdivision to notify a county of legal settlement of services rendered to a person having legal settlement in said county, months after the service has been performed and then demand payment in full for all such services. It does not appear such procedure was contemplated or desired by the Legislature in view of the requirement that notice be sent within three days after discovery of the patient's non-residence. A view contrary to the one herein expressed would render meaningless such requirement.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that under the provisions of section 3484-2, supra, if a county, municipality or township renders medical or hospital services, in cases other than contagious, to a person who has a legal settlement in a county other than the one in which such service is rendered and such county, municipality or township fails to send written notice to the county commissioners of the county of legal settlement within three days after disclosure by such person or discovery of such non-residence, the county of legal settlement is liable only for those services rendered after receipt of notice.

Respectfully,

THOMAS J. HERBERT,
Attorney General.