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HOSPITAL—CREDIT, \$1.25, ALLOWED TO COUNTY COMMISSIONERS FOR CARE OF PATIENT—OHIO TUBERCULOSIS HOSPITAL—CREDIT SHOULD BE ALLOWED IN FIXING CHARGE TO SUCH PATIENT—CHARGE SHOULD NOT EXCEED NET AMOUNT WHICH COMMISSIONERS PAY TO STATE ON ACCOUNT OF HOSPITALIZATION OF PATIENT—SECTION 1236-26 G. C.

SYLLABUS:

The credit of \$1.25 allowed to the county commissioners under Section 1236-26, General Code, for the care of a patient in the Ohio Tuberculosis Hospital should be allowed by said Commissioners in fixing the charge to such patient, and the charge to such patient should not exceed the net amount which the commissioners pay to the State on account of the hospitalization of such patient.

Columbus, Ohio, May 6, 1952

Hon. Joseph T. Ferguson, Auditor of State
Columbus, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“Your attention is called particularly to the provisions of General Code, Section 1236-26.

“In connection with such section, is the credit of one dollar and twenty-five cents per patient per day noted therein, subject to any of the provisions of General Code Section 3139-23, relative to the credit or use of the one dollar and twenty-five cents provided in the said latter section?

“In addition to the foregoing, your opinion is requested in reference to the following situation: In February, 1952, a patient was admitted to the Ohio Tuberculosis Hospital from one of the counties in Ohio, and such county was billed for the care and treatment of such patient at the rate of \$8.50 per day, less a credit of \$1.25, or a net charge of \$7.25 per day. During such month the county billed the patient at a rate of \$8.50 per day, and received payment at such rate, and the money was paid into the general fund of the county.

“In the light of the above facts, is the county required to refund to the patient the excess amount of \$1.25 received, over and above what it cost the county to support the patient at the state hospital, or may the county retain or charge more from the patient than what the county is charged by the state?”

Section 3139-23, General Code, to which you refer, was part of an Act which became effective September 15, 1947, and relates to tuberculosis hospitals established either by a county or by two or more counties as a district. This section makes provision for a subsidy to be paid by the State to the board of trustees of such district hospital or to the county commissioners acting in the capacity of a board of trustees of a county hospital. The section provides in part, as follows:

“On and after July 1, 1947, the state shall pay to the board of trustees, or the board of county commissioners serving as a board of trustees, of any county, district, or municipal tuberculosis hospital approved by the Ohio department of health the sum of two dollars and fifty cents (\$2.50) per day for each patient

hospitalized for the treatment of tuberculosis in such hospital by any county for whose care and treatment the county was legally obligated to pay. One dollar and twenty-five cents (\$1.25) of such sum received by such trustees, or county commissioners serving as a board of trustees, shall be expended only for the care and treatment of tuberculosis, or the operation, maintenance or improvement of such tuberculosis hospital. The remaining one dollar and twenty-five cents (\$1.25) of such sum shall be retained by the said trustees, or board of county commissioners serving as a board of trustees, for the use and credit of the county in which the patient has legal residence to be applied as part of the per diem cost of the hospitalization of such patient.

“Any county in the state of Ohio not having a county or municipal tuberculosis hospital or belonging to a district tuberculosis hospital, may commit a patient to any other hospital or tuberculosis wing thereof and shall receive one dollar and twenty-five cents (\$1.25) per day for each patient hospitalized. * * *.”

It is to be noted that \$1.25 of the \$2.50 is to be used for the “care and treatment of tuberculosis, or the operation, *maintenance or improvement* of such tuberculosis hospital.” The remaining \$1.25 of such sum is to be retained by said trustees “for the use and credit of the county in which the patient has legal residence to be applied as part of the per diem cost of the hospitalization of such patient.”

It should be borne in mind, of course, that the cost of hospitalization of tuberculosis patients committed to a municipal, county or district hospital, falls upon the county of residence of the patient. The law, however, plainly contemplates that those patients who can pay for their care, will be charged for such care. The statutory provision as to this, is found in Section 3139-10, General Code, where it is said:

“* * * The board of trustees may require from any applicant admitted from the county or counties maintaining the hospital, payment *not exceeding the actual cost of care and treatment, including the cost of transportation*, if any. * * *”

(Emphasis added.)

This is followed by a provision that to the extent that the patient is unable to pay such cost, it shall be paid by the county in which the patient has a legal residence.

The provisions for the care of tuberculous patients in the Ohio Tuberculosis Hospital are found in Sections 1236-22 to 1236-26, inclusive,

of the General Code. The act embracing these sections became effective June 22, 1949. Section 1236-25 reads as follows:

“The hospital herein referred to 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 (as may be 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, if any, for the area in which the applicant lives, and the application for admission to said hospital, however, shall be approved by the county commissioners of the county in which the applicant lives.”

Section 1236-26 reads as follows:

“The charge for care and treatment of patients admitted to said tuberculosis hospital herein provided for shall be borne by the county in which such patient lives. Such charge shall be at the per diem rate as determined by the director of health. The director of health shall certify to the auditor of state the amounts due from each county for the care and treatment of patients hospitalized under the provisions of this act. The auditor of state shall transmit to the 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 monies received by the state for such care and treatment at the Ohio tuberculosis hospital shall be paid into the state treasury as provided by law.” (Emphasis added.)

Here it will be noted is a provision whereby the State grants a credit to the county commissioners of \$1.25 per patient per day for those patients who are admitted to The Ohio Tuberculosis Hospital. The deduction of that sum from the statement of the amount due for care of a patient, amounts in effect to a subsidy in the sum of \$1.25 granted by the State to the county.

The statutes to which I have called attention, relative to the treatment of tuberculosis patients in county and district hospitals were not passed at the same time as the sections relating to the care of such patients in the Ohio Tuberculosis Hospital. The hospitals referred to in these respective laws have no direct relationship to each other. How-

ever, it must be borne in mind that they both relate to precisely the same subject, to wit, the care of persons afflicted with tuberculosis, which is recognized as an infectious disease; and its prevention and care is, therefore, a matter of public concern, not only for the relief of the person but for the protection of the public. Accordingly, we may very properly read these provisions together and consider them in *pari materia* in endeavoring to determine the general policy of the legislature.

Recurring to Section 3139-10 *supra*, it is to be noted that while the trustees of the hospital are authorized to charge those who are able to pay for their care, yet the trustees may not fix the rate of charges at an amount exceeding the actual cost of care and treatment, including the cost of transportation. Plainly, the subsidy granted by the State, of \$1.25 per day for each patient, will reduce the cost chargeable to the patient by that amount, below what it would have been were it not for the subsidy. This in effect gives the patient the benefit of the contribution by the State. And the above provision, in my opinion may be taken as an indication of the general policy of the law.

When we come to consider the charge which the county commissioners may make to a patient whom they have sent to the Ohio Tuberculosis Hospital and who is able to pay, we find that the commissioners are given the benefit of the same contribution by the State, to wit, \$1.25 per day per patient. The law certainly does not authorize, and in my opinion does not contemplate that the county commissioners should make a profit from a patient by exacting from him the full amount for which the State Hospital has billed him, without giving him the benefit of the credit of \$1.25 per day which they have received from the State. To give him the the benefit of this credit would only be following the general policy as above shown, and as applied to like patients in a county or district hospital.

It is therefore my opinion, and you are advised that the credit of \$1.25 allowed to the county commissioners under Section 1236-26, General Code, for the care of a patient in the Ohio Tuberculosis Hospital should be allowed by said Commissioners in fixing the charge to such patient, and the charge to such patient should not exceed the net amount which the commissioners pay to the State on account of the hospitalization of such patient.

Respectfully,

C. WILLIAM O'NEILL

Attorney General