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1. INDIGENT PATIENT—HOSPITAL CARE—NOT TERMINATED NOR MAY PATIENT BE CONSIDERED DISCHARGED UNTIL AND UNLESS LEGAL RELATIONSHIP THROUGH PATIENT'S BEING CONFINED IN HOSPITAL HAS CEASED.
2. NOT NECESSARY FOR NINETY DAYS TO ELAPSE AFTER TERMINATION OF HOSPITAL CARE TO DETERMINE INDIGENCY—REGISTRAR, INSURANCE—MAY HONOR INTERIM CLAIM FOR REIMBURSEMENT BY HOSPITAL PRIOR TO DISCHARGE OF INDIGENT PATIENT OR TERMINATION OF HIS CARE—SECTION 4515.03, SUBDIVISIONS (B, D,) RC.

SYLLABUS:

1. The care of an indigent patient may not be deemed terminated nor may such patient be considered discharged under the provisions of Section 4515.06, Subdivision (B), Revised Code, until and unless the legal relationship arising by reason of the patient's being confined in a hospital has ceased.

2. By reason of the change in the definition of an indigent patient under Subdivision (D) of Section 4515.03, Revised Code, as affected by House Bill No. 491, 125 Ohio Laws, 679, it is no longer necessary that a period of ninety days elapse after the termination of hospital care in order for a determination of indigency to be made by the registrar. Accordingly, the registrar may in a proper case, and in the exercise of his sound administrative discretion, honor an interim claim for reimbursement by a hospital as defined by Section 4515.03, supra, prior to the discharge of an indigent patient or the termination of his care.

Columbus, Ohio, May 27, 1955

Hon. C. Ervin Nofer, Acting Registrar
Bureau of Motor Vehicles, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Will you kindly advise if, in your opinion, an indigent patient injured in a motor vehicle accident who is in a non-profit hospital for one year, can be considered ‘discharged’ in compliance with Revised Code Section 4515.06 (b), if after eleven

months he shares in the benefits of the Blue Cross Plan for 30 days.

“If this is possible the hospital will be reimbursed at that time for care given the patient for eleven months prior to his sharing in the Blue Cross benefits.

“The participating hospital after the annual benefits of the Blue Cross terminate, would again carry the patient (who has actually never left the hospital) as an indigent patient for the next succeeding eleven months.”

The question propounded in your inquiry requires consideration of the provisions for reimbursement to hospitals as set forth in Section 4515.03, et seq., Revised Code. These sections, in brief, provide for the reimbursement to a hospital of the per diem cost, in an amount determined by a formula set out in Section 4515.03, Revised Code, of the care of an indigent person suffering a motor vehicle injury.

Section 4515.06, Revised Code, provides for the form in which a claim for reimbursement shall be made by the hospital. Subdivision (B) thereof, to which you have referred in your letter, provides that one of the items of information to be supplied in connection with such claim shall be as follows:

“The number of days’ care given to such person, with the dates of reception into the hospital and discharge or other termination of care;”

If, as a condition precedent to reimbursement, it is required that the patient shall have been discharged or his care otherwise terminated, I cannot see how the receipt of the benefits of the Blue Cross Plan by the patient during the period of his care in the hospital could in any way effect a “discharge or other termination of care” within the purview of the foregoing statute. The termination referred to in said section is neither a termination of insurance benefits nor a termination of potentially reimbursable care, by reason of the receipt for a limited period during the year of insurance benefits. It is, rather, a termination of the legal relation existing between the hospital and patient as would occur upon the patient’s being discharged as cured, his transfer to another institution, or his death.

However, in connection with your inquiry, your attention is directed to certain pertinent changes which have been made in Section 4515.03, Revised Code, Subdivision (D) with respect to the definition of an indigent

patient. This change in definition was effected by House Bill No. 491, enacted in 125 Ohio Laws, 679, and effective October 29, 1953.

In order to appreciate the changes wrought by House Bill No. 491, it is deemed appropriate to compare the definition of an indigent patient as previously obtained and the definition of such patient under the present statute. Prior to October 28, 1953, an indigent patient was defined in Subdivision (D) of Section 4515.03, as follows:

“ ‘Indigent patient’ means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, and is unable to pay the per diem cost of such care *which remains unpaid at the expiration of ninety days after the termination of such care*; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen’s compensation law of this or any other state or country. A person injured by the operation of a motor vehicle is considered indigent if it appears that, should an action be brought and judgment secured for the amount thereof against him, or against any other person responsible for his care, execution thereon, exclusive of all exemption rights conferred upon such person by law, would be unavailing. Indigency of a patient shall be determined as of the date on which said patient becomes unable to pay for the cost of the hospital care.” (Emphasis added.)

As presently constituted, said Subdivision reads as follows:

“A person who has suffered a motor vehicle injury, and is received and cared for in a hospital, is an indigent patient for the period during which he receives hospital care for which neither he nor any one on his account is able to pay the cost; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workman’s compensation law of this or any other state or country. A person injured by the operation of a motor vehicle is considered indigent if it appears that should an action be brought and judgment secured for the amount thereof against him, or against any other person responsible for his care, execution thereon, exclusive of all exemption rights conferred upon such person by law, would be unavailing. Indigency of a patient shall be determined as of the date on which said patient becomes unable to pay or cause to be paid the cost of the hospital care.”

Comparison of these two sections leads to the conclusion that prior to October 28, 1953, a hospital could not have become eligible for the reimbursement provided by law until a minimum of ninety days had elapsed after the termination of care of an otherwise eligible patient. This is apparent since the definition by its own terms would preclude a determination of indigency until the expiration of such period.

On the other hand, this same subdivision, as amended, has eliminated the ninety day provision and merely provides that the patient is an indigent one for the period during which he receives hospital care for which neither he nor anyone on his account is able to pay the cost.

It would appear that the removal of this ninety day provision heretofore referred to was a matter of legislative design rather than of legislative accident and was accordingly intended to allow a determination of indigency to be made at any time during the period of hospital care. I can perceive of no other purpose for this particular amendment.

Insofar as Section 4515.06, Subdivision (B) provides for a statement as to the number of days' care given with the date of reception as well as discharge or other termination of care, in view of the amendment of subdivision (D) of Section 4513.03, *supra*, previously noted, I do not conceive that this item is intended to interpolate into the statute a legal requirement that care shall have terminated prior to a hospital becoming eligible for reimbursement. If, in fact, the care has terminated, this fact should, of course, be entered on the claim form. If it has not, the number of days care given to the date of the claim with the date of reception into the hospital should be sufficient.

It does not necessarily follow, however, from the foregoing conclusions that the registrar is required to honor each and every claim for reimbursement made with respect to an allegedly indigent person whose period of care in the claiming hospital has not terminated. It may well be that in some cases the registrar would not be in a position to make a factual determination sufficient to allow him to pay the claim until after the discharge of the patient. Consequently, the payment or nonpayment of an interim claim for reimbursement while the patient is still under the care of an eligible institution must, of necessity, be a matter for the exercise of a sound administrative discretion. I merely conclude herein that the registrar is not *required* to await the discharge or other termination of care of the patient in order to reimburse an eligible institution if the interim claim is otherwise proper.

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

1. The care of an indigent patient may not be deemed terminated nor may such patient be considered discharged under the provisions of Section 4515.06, Subdivision (B), Revised Code, until and unless the

legal relationship arising by reason of the patient's being confined in a hospital has ceased.

2. By reason of the change in the definition of an indigent patient under Subdivision (D) of Section 4515.03, Revised Code, as effected by House Bill No. 491, 125 Ohio Laws, 679, it is no longer necessary that a period of ninety days elapse after the termination of hospital care in order for a determination of indigency to be made by the registrar. Accordingly, the registrar may in a proper case, and in the exercise of his sound administrative discretion, honor an interim claim for reimbursement by a hospital as defined by Section 4515.03, *supra*, prior to the discharge of an indigent patient or the termination of his care.

Respectfully,

C. WILLIAM O'NEILL
Attorney General