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HOSPITAL SERVICE CORPORATION—MUNICIPALLY OWNED HOSPITAL, NON-PROFIT HOSPITAL— CONTRACT— MAY PROVIDE, IN ORDER TO DETERMINE RATES TO BE PAID, FOR A CEILING BASIS OF AN OVER-ALL CHARGE OF ALL CASES FOR A STIPULATED PERIOD, SUCH CEILING BASIS TO BE SAME AS OVER-ALL CHARGE OF HOSPITAL FOR PERIOD STIPULATED, FOR PATIENTS NOT SUBSCRIBERS.

Columbus, Ohio, May 13, 1946

Bureau of Inspection and Supervision of Public Offices
Columbus, Ohio

Gentlemen :

SYLLABUS :

A contract between a municipally owned hospital and a non-profit hospital service corporation may, for the purpose of determining the rates to be paid by such corporation for services furnished its subscribers, provide for a ceiling basis of an over-all charge of all cases for a stipulated period, such ceiling basis to be the same as the over-all charge of such hospital for the period stipulated, for patients not subscribers.

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

“In your opinion No. 796 under date of March 9, 1946, relative to contracts between municipally owned hospitals and non-profit hospital service corporations, it was held as shown by the second branch of the syllabus :

‘Rates to be charged for such service should be the same as those charged other patients for like service.’

We are informed that certain of those hospital service corporations have inserted in their contract with municipal hospitals a provision providing for a ceiling basis of an over-all average of all cases for a stipulated period. Such ceiling basis to be the same as the over-all charge for such hospital for the period stipulated, for patients not subscribers. This provision, as we understand it, does not contemplate a preferential rate to the association as compared with the rate charged other patients but

is intended to protect the association from the payment of a rate higher than the average rate charged patients generally.

We are submitting the question whether a provision of this character is consistent with your opinion above noted."

In opinion 796 to which you refer I had before me your question whether in contracts to be made by a municipally owned hospital with a non profit hospital service corporation such contracts might provide special rates to be paid to such corporation for hospital service different from those rates paid by private patients for similar services. I understood that question to imply that the hospital service corporation might stipulate for more favorable rates than those generally charged to private patients and my answer embodied in the second syllabus of that opinion to the effect that rates to be charged for such service should be the same as those charged other patients for like services was predicated principally upon the idea that the municipality could not grant a favored rate to such corporation. In other words, that there could be no discrimination in rates in its favor as compared with those charged to the general public.

Your present inquiry suggests that the corporation merely desires to provide in its contract that there shall be a ceiling basis of an over-all average of all cases for a stipulated period, such ceiling basis to be the same as the over-all charge for such hospital for the period stipulated for patients not subscribers. I see no objection to this provision as it does not contemplate a preferential rate and by its terms is limited to the same average charge made to private patients who are not subscribers to the hospital service corporation.

Respectfully

HUGH S. JENKINS
Attorney General