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HOSPITAL REIMBURSEMENT LAW — SECTIONS 6308-7 TO 6308-15 G. C.—INDIGENT PATIENTS INJURED BY OPERATION OF MOTOR VEHICLE ON PUBLIC WAY—REGISTRAR OF MOTOR VEHICLES SHALL DETERMINE AMOUNT OF ANY CLAIM IN ACCORDANCE WITH PER DIEM COST—LESS ANY AMOUNT COLLECTED BY HOSPITAL FROM PATIENT—PERIOD OF TIME OF HOSPITALIZATION—WHEN REGISTRAR WITHOUT LEGAL AUTHORITY TO MAKE ANY PAYMENT ON PURPORTED CLAIM FOR REIMBURSEMENT.

SYLLABUS:

Under the terms of the Hospital Reimbursement Law (Sections 6308-7 to 6308-15, inclusive, of the General Code), the registrar of motor vehicles shall determine the amount of any claim in accordance with the per diem cost of such hospital as certified to him by the director of health, less any amount collected by the hospital from the patient. Such certified rate shall be applied for the full period of time a patient is hospitalized in making a determination as to whether reimbursement is authorized. If the amount actually collected by a hospital equals or exceeds the total amount for which reimbursement would otherwise be authorized, then in such event said registrar is without legal authority to make any payment on a purported claim for reimbursement.

Columbus, Ohio, May 12, 1948

Hon. Edward T. Fogo, Registrar, Bureau of Motor Vehicles
Columbus, Ohio.

Dear Sir:

Your request for my opinion reads:

"The Hospital Reimbursement Law, under sections 6308-7 to 15 of the General Code, provides that this Bureau shall reimburse non-profit hospitals for care rendered indigent patients suffering injuries caused by the operation of a motor vehicle on a public way.

"Not anticipated by the Hospital Reimbursement Law when it was enacted, we have found that a great many persons so injured and hospitalized now have some form of insurance which defrays the costs of the patient's first thirty to sixty days care. The hospitals contend that the patient is not indigent until such funds are exhausted and, therefore, wish to bill us only for the remaining days such patient is hospitalized after the contracted service terminates. For example, if patient John Doe is hospitalized for forty (40) days and has Blue Cross coverage which pays \$8.00 per day for the first thirty (30) days, the hospital will receive \$240.00. The claimant hospital, after patient Doe's discharge, bills us for his last ten days care. Upon receipt of the claim the procedure has been to base our computations on patient Doe's total hospitalization. We take forty (40) days times \$6.00 (if the hospital is eligible to receive our maximum) thus arriving at \$240.00. The hospital is then notified that the claim is not compensable since they have already obtained an amount equal to what the state would pay. (By this method we would allow \$6.00 for the forty-first day and each day thereafter.)

"Your opinion is respectfully requested as to whether we should base our per diem calculations upon the patient's hospitalization from admission to discharge, deducting the payments made through the pre-arranged plan, or whether we should consider only that period after the service funds are consumed.

"As most hospitalization services pay the hospitals an average per diem rate in excess of ours and which more adequately covers their costs, the claimants believe that we are penalizing them by applying our per diem rate to the full time that the patient was hospitalized."

On June 8, 1933 the Ninetieth General Assembly passed an act "To provide reimbursement for hospitals on account of expenses of the care

of indigent persons injured in motor vehicle accidents * * *” (115 O. L. 482.) By virtue of the express terms of said act the same was to remain in full force and effect until March 1, 1935. However, on February 25, 1935, this temporary measure became permanent law (116 O. L. 18). Said law is frequently referred to as the Hospital Reimbursement Law, and, as noted in your inquiry, is now contained in Sections 6308-7 to 6308-15, inclusive, of the General Code.

It is pertinent to observe at this point that the view is expressed in an opinion of one of my predecessors which will be found in Opinions of the Attorney General for 1940, Vol. I, page 329, the act here under consideration was passed for the express purpose of providing reimbursement for hospitals. In that opinion reference was made to the title of said act, which has been set forth above, in support of such view with which there is complete accord.

Your inquiry presents for determination the extent to which a hospital is entitled to reimbursement under the circumstances therein related. Hence it becomes necessary to examine the statutory provisions that prescribe the powers and duties of the registrar of motor vehicles.

Attention will first be directed to Section 6308-7, General Code, wherein certain terms are defined. In so far as here pertinent said section provides:

“* * * ‘Hospital’ means any institution, not organized and/or operated for profit, and registered with the state of Ohio, department of health, which receives and cares for patients suffering from motor vehicle injuries, the per diem cost of which care shall be ascertained and certified in the manner provided in this act.

“‘Per diem cost’ means the per diem cost of caring for a patient in a hospital as determined by the uniform annual report submitted to the state of Ohio, department of health. The rate certified shall not exceed the sum of six dollars per day. If no annual report has been filed with the state department of health as required by Section 1236-6 of the General Code no rate shall be certified.

“‘Indigent patient’ means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay for the cost of such care and whose account therefor 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 act of this or any other state or country. A person injured by the operation of a motor vehicle shall be deemed unable to pay such charges if it shall appear that, should an action be brought and judgment secured for the amount thereof against him, or against any other person legally responsible for his care, execution thereon would be unavailing."

Section 6308-8, General Code, which bears on the certification of hospitals, states:

"Within thirty days after this act shall take effect the director of health shall certify in duplicate to the registrar of motor vehicles and the auditor of state, respectively, the name, address and per diem cost of all hospitals in the state as determined by uniform annual report. Hereafter from time to time said director of health shall in like manner certify any additions to or subtractions from said list or any changes in such per diem costs which may occur. All claims made under this act shall be audited and paid in accordance with the per diem costs so certified and in effect at the time the charge shall have been incurred."

Section 6308-9, General Code, states what must be done on the part of a hospital in order to qualify for reimbursement. It reads:

"Each hospital, in order to be entitled to the benefit of this act, shall make and file with the registrar of motor vehicles monthly, as of the last business day of each month, a report under oath showing the name of each sufferer from a motor vehicle accident, received into and cared for in such hospital during the month covered by the report, for whom such hospital may desire to make claim under this act; the time and place of the accident or occurrence in which the injury was incurred; the total number of days' care given to such sufferer in the month for which report is made and in any preceding month or months; the date of the receipt and discharge of such sufferer or other termination of such care; and such other facts or information as the registrar of motor vehicles may require in the form of report prescribed by him."

Also to be noted is Section 6308-10, General Code, which provides inter alia:

"At the time of making any monthly report each hospital may present a statement of its claim for reimbursement for the cost of the care of each indigent patient, which claim has matured within the month covered by the report then due or within any previous month. Each such claim shall be made in the form pre-

scribed by the registrar of motor vehicles and shall show the following:

"1. The name of the person to whom care has been given.

"2. The number of days' care, with the dates of reception into the hospital and discharge or other termination of care.

"3. The amount of the claim.

"4. A statement under oath, showing the effort made by the hospital to collect the amount of the claim from the indigent patient, and the amount, if any, collected from such patients, *or any other person on his account.* * * *

"6. Such other facts and information as the registrar of motor vehicles may require in the form of claim prescribed by him."
(Emphasis supplied.)

By virtue of Section 6308-11, General Code, the registrar of motor vehicles shall examine and audit each claim presented to him under the provisions of this act. In this connection certain facts are to be determined, viz.,

"1. Whether or not the claim is predicated upon care given to a person suffering from a motor vehicle injury as defined in this act.

"2. Whether or not such person is able to pay the hospital charges for which the claim is made, within the meaning of this act."

Of special importance is Section 6308-12, General Code, which provides:

"When and if the registrar of motor vehicles shall have determined that a claim presented to him under the provisions of this act by a hospital which has complied with said provisions is made in respect of an indigent patient as evidenced by his findings under section 5 (G. C. §6308-11) of this act, he shall determine amount of such claim in accordance with the per diem cost of such hospital as certified to him under the provisions of this act *less any amount collected from the patient*, and shall pay the amount so ascertained to the claimant from the funds appropriated for that purpose. The registrar of motor vehicles may make monthly payments to each hospital entitled to receive the same covering all claims audited and approved by him within the preceding month."
(Emphasis supplied.)

Mention should also be made of Section 6308-13, General Code, which provides that if the registrar of motor vehicles shall disapprove any

claim, *except as to the amount thereof*, the claimant hospital shall be notified. In event the same is desired a hearing may be had before said registrar.

It would appear the principal argument of certain hospitals in opposition to the manner in which the law is presently being administered revolves around the contention that a patient is not indigent until his funds are exhausted. It may well be that if a person is able to defray the cost of hospitalization for a thirty or sixty day period, or longer, he does not become "indigent" as that word is commonly understood until such time as his funds are exhausted. However, the General Assembly, by virtue of Section 6308-7, General Code, has prescribed the test for determining what is meant by the term "indigent patient." There is no authority for adopting some other rule. In the statutory definition adverted to reference is made to a person whose account for hospitalization "remains *unpaid* at the expiration of ninety days" after the termination of hospital care. An account is unpaid if any amount is owing. Clearly, therefore, in so far as it bears on the matter of whether a person is an "indigent patient," it becomes of no importance that a patient has made *partial payment* on account of hospitalization. The making of partial payments merely reduces the amount for which a patient may be held liable and for which collection can be made in event he ultimately becomes solvent. He is nonetheless indigent within the meaning of said Section 6308-7, General Code. It might be here noted that under the terms of Section 6308-14, General Code, certain procedure is to be followed if a patient or person legally chargeable becomes able to pay. There is nothing in the Hospital Reimbursement Law that is inconsistent with the view now expressed that if the *total charge* for hospitalization is unpaid at the expiration of ninety days after termination of care such person must be regarded as an "indigent patient."

It is further noted from your inquiry that reference is made to a patient who has some form of *insurance* which defrays the cost of the first thirty or sixty days care. This statement is then followed by an example which refers to partial payment as the result of "Blue Cross coverage." It is not necessary, for the purposes of this opinion, to determine whether coverage of the nature just noted can be regarded as insurance for the reason that, in so far as concerns the duties of the registrar of motor vehicles, the *source* from which the cost of hospitalization is partially defrayed is of no consequence. However, the fact that a charge for hos-

pitalization is partially defrayed, does become of importance without regard to such *source*. This matter of partial payment is of significance because of the provisions of Section 6308-12, General Code, dealing with payment of claims. Under the terms thereof the registrar of motor vehicles shall determine the amount of the claim taking into consideration the "amount collected from the patient." No difficulty is experienced in formulating the conclusion that the "amount collected from the patient" would also include amounts paid by "any other person on his account." While not found in Section 6308-12, General Code, the phrase last quoted does appear in Section 6308-10, General Code.

If the amount paid for the account of a patient were not taken into consideration a ridiculous situation would result. Such a situation was clearly not contemplated notwithstanding the fact that the laws here under consideration were intended to provide for the *reimbursement* of hospitals. A hospital that charged a patient at the rate of \$6 per diem and was authorized to be reimbursed to such extent might be paid \$100 by some person other than the patient in partial discharge of a bill of \$150. In such event it would have to be conceded that the liability of the patient to the hospital could never exceed \$50. If the registrar of motor vehicles were obligated to pay the hospital \$150 it immediately becomes apparent the hospital would thereby be collecting a total of \$250 on account of a \$150 bill. This would certainly result in torturing the meaning of the word "reimbursement."

There is no justification for the conclusion that a patient who suffers an injury growing out of a motor vehicle accident and as a result is required to have hospital attention for forty consecutive days should be regarded as hospitalized on two separate occasions. It seems to me that such would, in effect, be the situation if recognition were given to the contention of certain hospitals that reimbursement is to be made at the per diem rate for some period of time in excess of thirty days. This same reasoning would, of course, be applicable in the case of care for any particular number of days with reimbursement being sought for the days not paid for by the patient or by someone on his behalf.

There is no authority in law for the registrar of motor vehicles, in the light of the express language of Section 6308-12, General Code, to disregard amounts collected from a patient in determining the amount for which a hospital should be reimbursed. It may well be that since the

enactment of the Hospital Reimbursement Law the cost of hospitalization has increased materially and that six dollars, which the law now provides is the maximum amount that can be paid by way of per diem reimbursement, is now inadequate. However, if the rate provided for by statute is to be changed it will have to be done by legislative action in order to correct the situation.

There is this additional aspect of the matter to be taken into consideration. It is stated in *State, ex rel. Locher v. Menning*, 95 O. S., 97, at page 99:

“* * * The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.”

This statement would be equally applicable in the case of the expenditure of state funds. Further touching on this proposition of law is *State, ex rel. Bentley & Sons Co. v. Pierce*, 96 O. S. 44 and *State, ex rel. Smith v. Maharry*, 97 O. S. 272.

In specific answer to your inquiry you are therefore advised as follows:

Under the terms of the Hospital Reimbursement Law (Sections 6308-7 to 6308-15, inclusive, of the General Code), the registrar of motor vehicles shall determine the amount of any claim in accordance with the per diem cost of such hospital as certified to him by the director of health, less any amount collected by the hospital from the patient. Such certified rate shall be applied for the full period of time a patient is hospitalized in making a determination as to whether reimbursement is authorized. If the amount actually collected by a hospital equals or exceeds the total amount for which reimbursement would otherwise be authorized, then in such event said registrar is without legal authority to make any payment on a purported claim for reimbursement.

Respectfully,

HUGH S. JENKINS,
Attorney General.