

5350.

## PUBLIC WELFARE DEPARTMENT—UNAUTHORIZED TO COLLECT FOR SUPPORT OF INMATES IN COUNTY DETENTION HOSPITALS—PAY PATIENT LAW.

*SYLLABUS:*

*The Department of Public Welfare has no authority to collect for the support of inmates in county detention hospitals from said inmates or their relatives as the provisions of sections 1815-1 to 1815-10 (Pay Patient Law) are not applicable thereto. (Opinion No. 4558 in 1935 Opinions of the Attorney General approved and followed.)*

COLUMBUS, OHIO, April 14, 1936.

MRS. MARGARET M. ALLMAN, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR MADAM: This will acknowledge receipt of your request for a reconsideration of a portion of my Opinion No. 4558, rendered August 19, 1935, which request reads as follows:

“On August 19th, 1935, you rendered an Opinion No. 4558 to this Department. It dealt with the manner in which the provisions of Senate Bill No. 207 should be carried out in Cuyahoga County, where we are now paying the expenses of a large number of insane patients in County Detention Hospitals.

In your opinion you make the statement that we cannot ask these patients detained in these hospitals at the expense of the State of Ohio to pay the usual \$5.50 a week, as provided in Section 1815-2.

I am writing you to request you to reconsider this opinion. It is our belief that these insane patients now being supported by us are as definitely wards of the State as if they were actually within the walls of The Cleveland State Hospital, and consequently come under the provisions of Section 1815-2.”

The legislation with respect to the care and support of insane persons has been enacted pursuant to Article VII, Section 1, of the Ohio Constitution, which reads as follows:

“Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the State;

and be subject to such regulations as may be prescribed by the General Assembly."

It will be seen from the above that it is the primary duty of the state of Ohio to provide institutions for the care and confinement of all insane persons. Said care and confinement is essential for all persons so afflicted, regardless of their means, not only for their own welfare but for the protection of the public at large.

The Legislature has seen fit to shift to the inmate or to certain enumerated relatives part of the financial burden for his care where said inmate or relatives are financially able to bear the same. This power of the Legislature under the Constitution has been upheld by the courts. *Rich v. State*, 14 O. App., 9.

It will therefore be seen that in the absence of sections 1815 and 1815-1 to 1815-10 (Pay Patient Law), the state of Ohio alone would have to bear the expense of the support of insane persons. These sections must therefore be confined to their express provisions and cannot be enlarged to enable the state to make charges for the support of inmates in institutions not therein named.

Section 1815 says that all persons admitted to a benevolent institution shall be maintained at the expense of the state "except as otherwise provided in this chapter and except as otherwise provided in chapters relating to particular institutions." In section 1815-1, General Code, the institutions, the inmates of which or their relatives are subject to charges for support, are specifically named, to-wit, any state hospital for the insane, Longview Hospital (now a state hospital), the Ohio Hospital for Epileptics and the Institution for Feeble-Minded.

Section 1815, General Code, provides for investigation of the financial condition of inmates in *said* institutions. Sections 1815-6 and 1815-8, General Code, refer to inmates in *state* institutions, and section 1815-10, General Code, to the *aforementioned* institutions. From the language of these sections, it therefore appears that the support of an insane person in any other public or quasi public institution, not included in the exceptions contained in section 1815, *supra*, must be paid by the state.

The detention hospitals provided for in sections 3154, 3155 and 3156 are established and supervised by the respective counties and are county hospitals. In amending section 3156, the Legislature made the state liable for insane persons in detention hospitals "as provided in section 1815 and section 1950, General Code. Section 1950 is not relevant to this discussion and section 1815 previously referred to makes the state liable except for patients in specified institutions. County detention hospitals are not within the institutions so excepted.

No doubt the Legislature, in enacting legislation authorizing the

establishment of county detention hospitals, had no idea that a situation such as exists in Cuyahoga County would arise, and that such a burden would be thrown on the county. This is indicated by the subsequent shifting of the burden to the state by the amendment to section 3155, supra. To go further, however, and say that it was their intention to make the inmates of detention hospitals or their relatives subject to the provisions of the Pay Patient Law would be to read into said amendment something which is not there.

There is no question but that the treatment and care received by the inmates of the detention hospitals is just as good as that received by those in state hospitals and that the state should therefore be reimbursed by those who are able to pay, but this is a matter for the Legislature, as the power of the state to collect for said care and support is purely statutory and in the absence of legislation does not exist.

In view of the above, I am unable to reach any other conclusion on this question than that set forth in Opinion No. 4558.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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5351.

APPROVAL—BONDS OF MINFORD RURAL SCHOOL DISTRICT, SCIOTO COUNTY, OHIO, \$48,000.00.

COLUMBUS, OHIO, April 14, 1936.

*Industrial Commission of Ohio, Columbus, Ohio.*

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5352.

APPROVAL—BONDS OF CUYAHOGA COUNTY, OHIO, \$38,000.00.

COLUMBUS, OHIO, April 14, 1936.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*