

Note from the Attorney General's Office:

1936 Op. Att'y Gen. No. 36-5912 was overruled
by 1962 Op. Att'y Gen. No. 62-2920.

5912.

INDIGENT PERSON—HOSPITALIZATION IN COUNTY OTHER THAN ONE OF LEGAL RESIDENCE—DUTY OF COUNTY AND TOWNSHIP OF LEGAL SETTLEMENT TO PAY FOR HOSPITALIZATION AND BURIAL EXPENSES.

SYLLABUS:

1. *By virtue of Section 3484-2, General Code, if an indigent person is hospitalized by the township trustees in a county other than the county of his legal settlement and if proper notification is given to the county commissioners of the county of his legal settlement, the county commissioners of legal settlement should pay the cost of such hospitalization at the established rate of the township providing such hospitalization, and should pay for the same within thirty days after date of the sworn statement of expense.*

2. *If an indigent person is found dead in a county other than the county of his legal settlement, by virtue of the provisions of Section 3495, G. C. the expense of such person's burial should be borne by the township or corporation in which he had a legal settlement at the time of his death.*

COLUMBUS, OHIO, July 29, 1936.

HON. CLIFTON L. CARYL, *Prosecuting Attorney, Marysville, Ohio.*

DEAR SIR: I am in receipt of your communication which reads as follows:

"This office desires an opinion construing Sections 3480-1 and 3484-2, General Code of Ohio. The matter in dispute is as follows:

R. J., a minor, had a legal settlement in the Township of Union, Union County, Ohio and was employed for approximately two weeks in the Township of Rush, County of Champaign, at which place he worked for a private concern. R. J. became violently ill, as a result of which the township trustees of Rush Township, Champaign County, were called and immediately notified the Board of Township Trustees of Union Township, Union County, which was the legal place of residence of R. J. The Board of Township Trustees of Union Township instructed the Board of Township Trustees of Rush Township to take R. J. to a hospital, and as a result thereof, he immediately became

a patient of a hospital in Champaign County, at which place he died.

The matter in dispute is as to whether or not the Township Trustees of Union Township, wherein R. J. had a legal settlement, should pay such medical and burial expenses, or whether said expenses come within provisions of Section 3484-2, General Code of Ohio, thus rendering the Board of County Commissioners liable.

Notices which are required by virtue of these two sections were properly sent to the Board of Township Trustees of Union Township, and also to the Board of County Commissioners of Union County."

Summarizing, R. J., an indigent, had a legal settlement in the Township of Union, Union County, but (1) received hospitalization in the Township of Rush, Champaign County, such service being rendered by the Township of Rush and proper notification having been made to the county commissioners of Union County and (2) R. J. died in the Township of Rush, Champaign County and the township of legal settlement, namely, the Township of Union, Union County, was properly notified.

With reference to the hospitalization, I call your attention to Section 3484-2, General Code, which makes provision for medical care and hospitalization of a person in a county other than that of his legal settlement. This section provides in part:

"When a person requiring medical services or the services of a hospital, in cases other than contagious, has a legal settlement in a county other than the one in which such service is rendered, and is unable to pay the expenses of such service, and such service is rendered by a municipality or township, the municipality or township rendering such service shall notify in writing the county commissioners of the county of legal settlement that such service is being rendered. Such written notice shall be sent within three days if the fact of non-residence is disclosed upon the beginning of such service, or admission to such hospital, or within three days after the discovery of such fact, if the same be not disclosed as above. Within twenty days after the discharge of such person, or the rendering of the last service, the municipality or township rendering such service shall send a notice thereof, and a sworn statement of its expenses, at the established rate of the municipality or township therefor, to the county commissioners of the county of legal settlement. Thereupon the county of legal settlement shall be liable to the

municipality or township rendering such service for the expenses of such service, including hospital service, at the established rate of the municipality or township therefor, and shall pay for the same within thirty days after date of the sworn statement of expenses. * * *”

Consequently, with reference to the hospitalization of the indigent, R. J., if proper notification was given by the township trustees of Rush Township, Champaign County, to the county commissioners of Union County, the county of legal settlement of R. J., then Union County was liable to the Township of Rush, Champaign County, for such hospital services at the established rate of the township and should pay for the same within thirty days after the date of the sworn statement of expenses.

Coming now to the question of burial expenses of R. J., I call your attention to Section 3495, General Code, which provides inter alia :

“When the dead body of a person is found in a township or municipal corporation, and such person was not an inmate of a penal, reformatory, benevolent or charitable institution, in this state, and whose body is not claimed by any person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of section 9984, it shall be disposed of as follows: If he were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death; *if he had a legal residence in any other county of the state at the time of his death, the infirmary superintendent of the county in which his dead body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death;* * * *”
(Italics ours.)

Section 3495, General Code, quoted in part supra, is a part of the Chapter of the General Code of Ohio on Poor Relief Laws and consequently the term of the statute quoted supra, namely, “legal residence”, is to be construed in pari materia with the other sections in this permanent chapter of Poor Relief Laws, viz., Sections 3476, et seq., General Code of Ohio. It would appear, therefore, that the term “legal residence” employed in Section 3495 should be construed as synonymous with the term “legal settlement” defined in Sections 3477 and 3479, General

Code. In other words, there is believed to be no reason why the burial of indigents should be placed in any different category from other forms of poor relief under the Chapter of Poor Relief Laws. This construction of Section 3495, General Code, is also in accord and re-enforced by the long administrative practice adopted by the Bureau of Inspection and Supervision of Public Offices. With regard to such long administrative practice, the Supreme Court of Ohio in the case of *Industrial Commission v. Brown*, 92 O. S., 309, said at Page 311:

“Administrative interpretation of a given law while not conclusive, is, if long continued, to be reckoned with most seriously and is not to be disregarded and set aside unless judicial construction makes it imperative so to do.”

See also *State ex rel. v. Brown*, 121 O. S. 73, 74; 36 Cyc., 1140, 25 R. C. L. 1043.

Consequently, in specific answer to the second question of your inquiry, it is my opinion that by virtue of Section 3495, General Code, the township of legal settlement of R. J., namely, the Township of Union, Union County, should pay the expense of the burial of R. J.

1. By virtue of Section 3484-2, General Code, if an indigent person is hospitalized by the township trustees in a county other than the county of his legal settlement, if proper notification is given to the county commissioners of the county of his legal settlement, the county commissioners of legal settlement should pay the cost of such hospitalization at the established rate of the township providing such hospitalization, and should pay for the same within thirty days after date of the sworn statement of expense.

2. If an indigent person is found dead in a county other than the county of his legal settlement, by virtue of the provisions of Section 3495, G. C., the expense of such person's burial should be borne by the township or corporation in which he had a legal settlement at the time of his death.

Respectfully,

JOHN W. BRICKER,
Attorney General.