

3997

1. HOSPITAL REIMBURSEMENT LAW — INMATES, PUBLICLY OWNED PENAL INSTITUTIONS — PATIENTS UNDER POLICE GUARD — CONVALESCENCE — PERSONS LEGALLY RESPONSIBLE, PAYMENT HOSPITAL SERVICES TO SUCH PATIENTS — INCLUDES INMATE'S SPOUSE, OR PARENTS, WHERE INMATE OR PATIENT, MINOR.
2. MOTOR VEHICLE INJURIES — HOSPITAL SERVICES — MINORS, WARDS OF THE COURT — WHEN CARED FOR PRIVATELY, PARENTS, GUARDIAN OR PERSON CHARGED WITH MINOR'S SUPPORT LIABLE FOR PAYMENT.
3. STATUS, PAYMENT HOSPITAL SERVICES — INMATES PRIVATELY OWNED BENEVOLENT INSTITUTIONS.

SYLLABUS:

1. *Persons legally responsible under the Hospital Reimbursement Law for the payment of hospital services rendered inmates of publicly owned penal institutions and patients under police guard whose care is continued because of the lack of proper police facilities for convalescence include the inmate's spouse, or the parents where the inmate or patient is a minor.*

2. *When hospital services necessitated by motor vehicle injuries are rendered to minors who are wards of the court and who are cared for privately, the parents, guardian or person charged with the minor's support are liable for the payment of such services.*

3. *Persons legally responsible under the Hospital Reimbursement Law for the payment of hospital services rendered inmates of privately owned benevolent institutions include the inmate's parents, in case of infancy, or the inmate's spouse, in case there is a marital status.*

Columbus, Ohio, July 18, 1941.

Hon. Cylon W. Wallace, Registrar, Bureau of Motor Vehicles,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as to what persons are legally responsible under the Hospital Reimbursement Law for the payment of the costs of hospital services rendered inmates of publicly owned penal and privately owned benevolent institutions; wards of the courts cared for privately; and patients under police guard whose care is continued because of the lack of proper police facilities for convalescence.

Before considering in detail the categories mentioned in your inquiry, I deem it advisable to combine the first and fourth, with reference to inmates of publicly owned penal institutions and patients under police guard, since the two are in legal contemplation the same. Prison bounds are not considered as co-terminus with the geographical limits of the place of the penitentiary or jail, but extend to any lawful place of incarceration. Patients, therefore, under police surveillance, are technically inmates of the penitentiary, the county jail or municipal jail as the case may be. *State, ex rel. Attorney General vs. Peters*, 43 O.S. 629, 4 N.E. 81, (1885).

Section 6308-7, et seq., General Code, relative to the reimbursement of hospitals for services rendered to persons suffering from motor vehicle injuries, provide *inter alia* that the Registrar of Motor Vehicles, before paying for such services, shall determine whether or not the claim is predicated upon care given to a person suffering from a motor vehicle injury, and in addition, whether such person is able to pay the hospital charges for which the claim is made. This latter ascertainment as to the ability of the injured person to pay the hospital charges is dependent upon the determination of indigency. Indigency is technically defined in the act and requires the Registrar of Motor Vehicles to judge from appearances whether a judgment secured for the amount of the claim against the injured person or against any other person legally responsible for his care can be executed. In short, the determination of indigency rests upon the adequacy of the hospital's legal remedy for the enforcement of its claim.

Legal responsibility, when not based on contract, generally stems from close relationship by operation of law. In some instances, however, responsibility is imposed by statute irrespective of relationship and depends entirely on other qualifying factors such as residence in the community for a designated period of time, etc.

It is this latter type of statutory responsibility imposed upon political subdivisions with which we are concerned and it is necessary in this opinion to determine whether the term "persons legally responsible" in the context of the Hospital Reimbursement Law includes within its meaning the political subdivisions of the state or the state itself.

Section 6291, General Code, which states the purpose of the annual license tax levied upon the operation of motor vehicles upon the public roads or highways of the state declares, among other things, that the proceeds of the tax shall be used for the purpose of enforcing and paying the expenses of administering the law to provide reimbursement for hospitals on account of the expenses for the care of indigent persons injured in motor vehicle accidents.

In view of this declaration of purpose, the term "persons legally responsible" should in no sense be construed so as to include within its meaning the state, county or municipality unless such a construction would do violence to the clear intent of the Legislature to the contrary.

Section 3480, General Code, relative to poor relief, imposes a liability upon municipal corporations and creates a right in favor of hospitals furnishing hospital services to indigents having a legal settlement. Opinion No. 3785, Opinions of the Attorney General for the year 1926, page 452.

This municipal liability, of course, presupposes indigency on the part of inmate and is mentioned herein for the purpose of determining whether the municipal corporation should be considered as a person legally responsible, within the meaning of the Hospital Reimbursement Law.

Again referring to the purpose of the Hospital Reimbursement Law as set forth in Section 6291, General Code, it becomes apparent that the Legislature did not intend to include municipal corporations within the meaning of the word "person." Any other interpretation would render nugatory for most purposes the Hospital Reimbursement Law for it is

safe to assume that by far the greater number of persons injured by motor vehicles have a settlement status. Substantiating this viewpoint is the well established rule, in the construction of statutes, that a later particular act is controlling over a prior act of a general nature.

The Hospital Reimbursement Law relating to particularized injuries, namely those sustained through the operation of motor vehicles, became effective February 27, 1935. Section 3480, General Code, relating to the liability of municipalities for hospital services rendered indigents for any and all types of accidents was adopted February 27, 1878.

It, therefore, follows that the term "person" as used in the Hospital Reimbursement Law does not include within its meaning a municipal corporation. The same principles above set forth are equally applicable to the state and county and for similar reasons neither the state nor the county is to be considered as a "person legally responsible" under the Hospital Reimbursement Law for the payment of hospital services rendered to persons suffering from motor vehicle injuries.

Hence, the term "persons legally responsible" with reference to inmates of publicly owned penal institutions and patients under police guard includes only those made liable by statute because of their relationship to the recipient of the services. Such persons are the parents of the inmate, in case the inmate is a minor, or the spouse, in case the inmate has marital status. Sections 7995 and 10507-8, General Code.

Legal responsibility for wards of the court cared for privately is controlled by Section 1639-34, General Code, which, in so far as it relates to your inquiry, provides in substance that when a child has been committed, the court may make an examination regarding the income of the parents or guardian or person charged with its support, and may then order that such parent or guardian or person pay for the expenses involved in providing medical or surgical treatment or special care for such child. In the case of inability of any of the foregoing persons, the cost for such services is to be borne by the place of legal settlement.

In view of what has been said, however, claims for hospital services arising out of motor vehicle injuries are to be treated specially under the Hospital Reimbursement Law and should be paid by the Registrar of Motor Vehicles, rather than by the place of legal settlement in case the execution of a judgment would be unavailing against the parents, guardian or person charged with the support of the ward.

Persons legally responsible under the Hospital Reimbursement Law for hospital services rendered inmates of privately owned benevolent institutions are the parents or spouse of the inmate and the mere fact that there is a gratuitous relationship between the inmate and the institution does not render the institution civilly liable for hospital services, nor in view of the foregoing is the inmate's place of legal settlement liable for services rendered in case of motor vehicle injuries.

Specifically answering your inquiry, it is my opinion that:

1. Persons legally responsible under the Hospital Reimbursement Law for the payment of hospital services rendered inmates of publicly owned penal institutions and patients under police guard whose care is continued because of the lack of proper police facilities for convalescence include the inmate's spouse, or the parents where the inmate or patient is a minor.

2. When hospital services necessitated by motor vehicle injuries are rendered to minors who are wards of the court and who are cared for privately, the parents, guardian or person charged with the minor's support are liable for the payment of such services.

3. Persons legally responsible under the Hospital Reimbursement Law for the payment of hospital services rendered inmates of privately owned benevolent institutions include the inmate's parents, in case of infancy, or the inmate's spouse, in case there is a marital status.

Respectfully,

THOMAS J. HERBERT,

Attorney General.