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RESIDENCE STATUS—PERSON ENTERED COUNTY TO RESIDE THERE—CONTINUED RESIDENCE TWELVE MONTHS—DID NOT RECEIVE POOR RELIEF—SECTION 3391-16 G.C.—AFTER ENTERING COUNTY RESIDENT ADMITTED AS PATIENT, COUNTY TUBERCULOSIS HOSPITAL—RESIDENCE STATUS OR LEGAL SETTLEMENT NOT AFFECTED.

SYLLABUS:

Where a person enters a county for the purpose of residing there, and continues such residence for a period of twelve months without receiving poor relief as defined in Section 3391-16, General Code, the fact that she has, after entering the county, been admitted as a patient into a county tuberculosis hospital, does not in any way affect her residence status or suspend her acquisition of a legal settlement in said county.

Columbus, Ohio, January 21, 1952

Hon. William A. Ambrose, Prosecuting Attorney
Mahoning County, Youngstown, Ohio

Dear Sir:

I have your request for my opinion, reading as follows:

“General Code Section 3391-16 provides in part, as follows:

‘Except as otherwise provided by law, legal settlement shall be acquired by residing in one county for a period of one year without receiving poor relief or relief from a private agency which maintains records of relief given. * * *

"A certain T. M., having resided in Trumbull County for many years and having a legal settlement there, came to Mahoning County in August, 1950. She secured employment with the C. S. Company in Youngstown, where she worked until removed to the Mahoning County Tuberculosis Hospital in February of 1951.

"She remained in said institution until about the first of September, 1951, and on October 23, 1951, appeared at the office of the Mahoning County Welfare Department, claiming indigency, and requested relief. The Welfare Department contacted the Trumbull Relief authorities, the subject not having been self-sustaining in Mahoning County for a period of twelve months, and Trumbull County refused to acknowledge legal settlement or assume any obligation in the matter. Basing their refusal on the claim that hospitalization in a tuberculosis sanitarium, even though at public expense, did not interrupt continuous residence for legal settlement, and for the further reason that confinement in a tuberculosis hospital could not be classed as being poor relief under the law.

"It occurs to the writer that if all that is needed to claim legal settlement and become eligible for relief is a twelve months residence, it will have a substantial impact not only in relief but in other agencies as well. As an example, our Mahoning County Tuberculosis Hospital accepts patients from Columbiana County at the expense of said county. It does not seem logical to say that after a stay in Mahoning County Tuberculosis Hospital for twelve months that they would gain legal settlement and be able to claim support from our local relief funds.

"In view of the foregoing, I respectfully request your opinion as to where, under the above facts, the legal settlement of subject is, in order that the responsibility for the administration of relief may be determined."

From your statement I note that the patient in question, after having resided in Trumbull County for many years, and after having acquired a legal settlement there, came to Mahoning County in August, 1950, where she secured employment and worked until February, 1951, when she was admitted to the Mahoning County Tuberculosis Hospital, where she remained until about the first of September, 1951. I note further that on October 23, 1951 she applied to the welfare department of Mahoning County for poor relief.

On these facts your question arises whether, under the circumstances stated, she had acquired a legal settlement in Mahoning County so as to entitle her to poor relief from that county. It would appear very clearly

that she did actually become a resident of Mahoning County in August, 1950, and unless something has intervened to suspend her residence, she was still a resident of that county on October 23, 1951, having clearly complied with the first part of the definition of "legal settlement" contained in Section 3391-16, General Code, which you have quoted, to wit, "residing in one county for a period of one year."

The only remaining question was whether or not she complied with the second portion of that definition, to wit, "without receiving poor relief or relief from a private agency which maintains records of relief given."

Unless, therefore, her treatment in the tuberculosis hospital of Mahoning County from February, 1951 to September, 1951 was "poor relief," it would appear to me on your statement that she had clearly acquired a legal settlement in Mahoning County prior to her application for relief in October, 1951.

It is very clearly settled that treatment in a tuberculosis hospital is not poor relief, as defined by the statutes. Section 3391-13, General Code, reads as follows:

"'Poor relief' means food, clothing, shelter, the services of a physician or surgeon, dental care, hospitalization, and other commodities and services necessary for the maintenance of health and decency. Poor relief may be given in cash or by order or both and shall be inalienable whether by way of assignment, charge, or otherwise, and exempt from attachment, garnishment or other like process. Local relief authorities shall not disburse funds through any private organization. Poor relief may be given to persons living in their own homes or other suitable quarters, *but not to persons living in a county home, city infirmary, jail, or tuberculosis sanitorium* or to children who are not living with their parents, guardians or other persons standing in place of parents." (Emphasis added.)

This section was under consideration in an opinion No. 915 which I rendered on November 9, 1951. Following a quotation of that section, it was said in the course of the opinion:

"A careful examination of this section shows that while hospitalization generally is classed as poor relief, the legislature plainly intended to exclude from such definition the cost of care of a patient in a tuberculosis sanitarium or hospital. It appears to me that it was clearly the intention to leave *hospitalization of*

tubercular patients where it had been, and to leave the requirement for such care dependent upon residence and not upon the acquisition of legal settlement." (Emphasis added.)

To the same effect, see Opinion 2328, Opinions of the Attorney General for 1950, page 671. See, also, Opinion 3226, Opinions of the Attorney General for 1948, page 259. That opinion reviews a number of prior opinions holding that tuberculosis hospitalization is not poor relief and does not fall within the provisions of statutes relating thereto.

I can see no reason for concluding that where a person has come into a county with the intention of making that county his residence, confinement in a tuberculosis hospital could in any respect interrupt or suspend his residence in that county. Even though he should leave the county of residence for a temporary purpose, he would not forfeit his status of residence. In 31 Ohio Jurisprudence, page 107, it is stated:

"Where a person residing in one township is sent by the poor authorities of that township to another township for the purpose of receiving hospital treatment and remains in the hospital for thirteen months, he will be considered in law as actually residing in the township from which he was sent and as having gained a settlement therein." Citing *Millcreek Twp. v. Miami Twp.*, 10 Ohio, 375.

Accordingly, I am of the opinion that the patient in question had on September 14, 1951 acquired a legal settlement in Mahoning County and that Mahoning County, and not Trumbull County, was responsible for furnishing her relief.

Your suggestion that under this holding patients from other counties who are accepted in the Mahoning County Tuberculosis Hospital, at the expense of the county of their residence, might by a stay in such tuberculosis hospital for twelve months acquire a legal settlement in Mahoning County and be able to claim support from the relief funds of that county, does not seem to me to have any substantial basis. In such case, the patient would not come into Mahoning County with the purpose or intention of acquiring a residence there, but merely as a resident of another county, coming in for the temporary purpose of hospitalization, pursuant to contract between the counties. This is illustrated by the *Millcreek Twp.* case above cited. By way of contrast, the patient you have mentioned in your statement of facts, came into the county for the obvious purpose of

acquiring a residence there and her confinement in the tuberculosis hospital was merely an incident of her residence.

Accordingly, in specific answer to your question I am of the opinion and you are advised that where a person enters a county for the purpose of residing there, and continues such residence for a period of twelve months without receiving poor relief as defined in Section 3391-16, General Code, the fact that she has after entering the county been admitted as a patient into a county tuberculosis hospital, does not in any way affect her residence status or suspend her acquisition of a legal settlement in said county.

Respectfully,

C. WILLIAM O'NEILL

Attorney General