

4135.

INDIGENT—ENTITLED TO HOSPITALIZATION AT EXPENSE OF TOWNSHIP TRUSTEES WHEN—TRANSPORTATION TO DISTANT HOSPITAL DISCUSSED.

SYLLABUS:

An indigent person suffering from a non-contagious disease who has a legal settlement within a township is entitled to hospitalization at the expense of the township trustees, if the same is necessary in any case where he is entitled to free medical attention, but there is no authority to transport such indigent and to pay his hospital expenses to a distant hospital if reasonable facilities for the particular type of care in question are available at a hospital less distant.

COLUMBUS, OHIO, APRIL 9, 1935.

HON. WARD C. CROSS, *Prosecuting Attorney, Jefferson, Ohio.*

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

“We have an inquiry from the Township Trustees of Williamsfield Township, Ashtabula County, relative to whether or not the township trustees have authority to send an indigent resident of their township, who is ill with cancer, to a hospital located outside the state, to wit: in Muscatine, Iowa, for treatment, pay his transportation both ways, and for treatments in the hospital.

I would appreciate very much your opinion on this matter.”

The problem presented necessitates the construction of the various statutes governing poor relief. Section 3476, General Code, provides in part as follows:

“ * * * the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief *in their homes* to all persons needing temporary or partial relief who are residents of the state, county and township or city * * * .” (Underscoring the writer's)

The language of this general poor relief statute quoted in part supra, fixes the burden of certain types of poor relief, but it must be conceded that it does not directly impose any duty with regard to hospital or medical care for indigents. The latter duty is imposed by Sections 3480, 3480-2 and 3484-2, General Code. Section 3480 provides:

“When a person in a township * * * requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees * * * . If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees * * * in writing, that he is attending such person, and thereupon the township * * * shall be liable for re-

lief and services thereafter rendered such person, in such amount as such trustees * * * determine to be just and reasonable. * * *

It has been held under this section that the terms "medical services" and "medical attendance" as employed in the above section include surgical services. See Opinions of the Attorney General for 1928, Vol. IV, page 2941.

Section 3480-1, General Code, provides for medical services and hospitalization of indigents in cases other than contagious where the indigent has a legal settlement in a municipality or township within the same county but other than that in which the services are rendered. It provides for a written notice to be given to the township trustees in case the indigent in question has a legal settlement in a township and prescribes a certain definite procedure to be followed before the township incurs liability for the expenses.

Section 3484-2, General Code, makes similar provisions when an indigent person requiring medical care 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. In this case if certain definite procedure, including notice etc. is followed, the county commissioners of the county of legal settlement of the person incur liability for the expenses.

A reading of the above sections relative to medical care and hospitalization reveals that the duty to render medical care and hospital care is less clearly imposed than the duty to furnish ordinary poor relief. In fact it is possible to contend that there is no duty on the part of the township trustees to furnish hospital care. However, in the case of *Mercy Hospital vs. Menegay*, 32 O. N. P. (N. S.) 1, it was held as disclosed by the first branch of the syllabus:

"1. An indigent person suffering from a non-contagious disease is entitled to hospitalization at public expense, if the same is necessary, in any case where he is entitled to receive free medical attention."

At page 5 it is stated:

" * * * The defendant trustees strongly contend that they owe no duty to furnish either medical or hospital care to the indigent resident of a village, but the court does not think that either position is tenable because these three statutes (referring to Sections 3476, 3480 and 3480-2, G. C.) are contained within the same legislative chapter and hence must be read in *pari materia*. When the court comes to read these three sections in that fashion it is evident that indigent persons are entitled to hospital as well as medical care at public expense, not only because the one is often useless without the other but because from the context of Sections 3480 and 3480-1 this is the manifest legislative intent. * * *

It is concluded at page 5:

" * * * the court finds that when indigent persons are resident in a village the limits of which are not co-extensive with those of the township that the township trustees are required to furnish temporary relief, and that medical attention and hospital care are a part of the temporary relief thus required to be furnished, except for contagious cases, and that when proper notice is given such trustees are liable for the reasonable value of the same."

It has been held in a somewhat analogous opinion by my predecessor in office to be found in the reported Opinions of the Attorney General for 1929, Vol. III, page 1780, as disclosed by the second branch of the syllabus:

“2. County commissioners have no authority to contribute to the expense of maintaining a tubercular resident of the county in a hospital outside the state, irrespective of whether such person is indigent or otherwise.”

However, that opinion was based upon the reasoning that since an elaborate hospital system for the treatment of tuberculosis has been established in this state that it appeared that the whole Act contemplated the furnishing of tubercular treatment in some hospital or other institution within the State of Ohio.

However, in border localities in the state, in the case of non-contagious diseases, the closest hospital facilities for the particular treatment in question might be located outside the State of Ohio. Therefore I do not arbitrarily conclude that in the case of non-contagious diseases that the township trustees are authorized to furnish hospital care for indigents only in hospitals within the territorial limits of the state. However, it is apparent that the township trustees would have no authority to pay hospital bills or traveling expenses to distant hospitals if reasonable facilities are present at a less distant point, inasmuch as reasonable requirements would dictate that such medical care and hospital service be furnished by a hospital situate near the person to be treated. In other words, it would be unreasonable to incur a greater expense in transporting an indigent person to a hospital at a greater distance or to pay hospital expenses for such indigent if a suitable doctor and hospital are near at hand and available for such type of care.

Consequently it is my opinion that an indigent person suffering from a non-contagious disease who has a legal settlement within a township is entitled to hospitalization at the expense of the township trustees, if the same is necessary in any case where he is entitled to free medical attention, but there is no authority to transport such indigent and to pay his hospital expenses to a distant hospital if reasonable facilities for the particular type of care in question are available at a hospital less distant.

Respectfully,

JOHN W. BRICKER,

Attorney General.

4136.

APPROVAL, CORRECTED ABSTRACT OF TITLE TO LANDS IN FLATROCK TOWNSHIP, HENRY COUNTY, OHIO, FOR PARK PURPOSES, EXECUTED BY THE SUPERINTENDENT OF BANKS.

COLUMBUS, OHIO, APRIL 9, 1935.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR:—Some months ago Hon. William H. Reinhart, then Conservation Commissioner, submitted to me for examination and approval an abstract of title covering certain parcels of land in Flatrock Township, Henry County, Ohio, which were then owned by Henry Weddelmann and Ida Weddelmann and by Charles Cordes, respective-