

"No claims against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the county auditor, except in those cases in which the amount due is fixed by law, or is authorized to be fixed by some other person or tribunal, in which case it shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the claim. No public money shall be disbursed by the county commissioners, or any of them, but shall be disbursed by the county treasurer, upon the warrant of the county auditor, specifying the name of the party entitled thereto, on what account, and upon whose allowance, if not fixed by law."

From the above it is clear that the bill about which you inquire is not an indebtedness in which the amount is fixed by law, as referred to in said section, and the payment of the same cannot be made until the claim is allowed by the county commissioners.

While no opinion is expressed herein as to whether or not sixty cents per hour is a proper rate for work of the character described, it must be said that a certain discretion is vested in the county commissioners under the provisions of the section above quoted. As stated in your letter, there was no price fixed for the services, and it is believed that the commissioners may fix a price which in their judgment and discretion is reasonable and proper. In the event that the action of the commissioners in this respect is unsatisfactory, a remedy is provided by section 2461 G. C., whereby the party presenting claim may appeal the matter to the court of common pleas.

In specific answer to your inquiry, you are advised that the county commissioners may properly refuse to allow the full amount of the bill of the character described, notwithstanding it has received the O. K. of the sheriff.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1906.

COUNTY HOME—RIGHTS OF COUNTY AND BENEFICIARIES WHERE
LIFE INSURANCE POLICY IS CARRIED ON LIFE OF INMATE OF
COUNTY INFIRMARY.

1. *There is no authority whereby an inmate of an infirmary and the beneficiaries of a policy insuring the life of said inmate can be compelled to transfer their interests to the county to defray expenses of the county in connection with the burial or care of said inmate.*

2. *Where the insured is an inmate in the county infirmary, the holder and beneficiary of the policy may assign their interests to the county for the purpose of defraying the county expenses in connection with caring for the insured; however, there is no legal method to compel such a procedure.*

3. *In the event the insured is the holder of the policy and has reserved the right to change the beneficiary named therein, he may name the county as such without the consent of the beneficiary.*

4. *Where the insured is not the holder of the policy he cannot in any manner take such action as will bind the holder or beneficiary.*

5. *Where the proceeds from the policy are payable to the estate of the insured, such funds may be appropriated by the county under the provisions of section 2548 G. C.*

COLUMBUS, OHIO, March 9, 1921.

HON. DONALD KIRKPATRICK, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—In your recent communication you request my opinion upon the following questions:

“Can the county compel an inmate of the infirmary upon whose life an insurance policy is carried, either by himself or by some one else, to transfer the same to the county so that the proceeds thereof can be used to defray the funeral expenses, etc.?”

Would an agreement made between the county and the person at the time he becomes such an inmate be binding upon all parties concerned and cause the proceeds of the policy, at the time it matures, to inure to the county for such above purposes?”

In your letter, in referring to the county infirmary superintendent, you further state:

“His position is arrived at due to the large number of inmates who, so it seems, either carry insurance upon their own lives while living off the county, payable to parties who should have attended to the caring for the inmates in many cases, and in most cases the parties being those upon whom the natural duty of caring for the inmate rests; or upon whose life such party carries insurance while not caring for him. Upon the death the relative collects the proceeds of the policy and the county pays the expenses of last sickness, funeral bills, grave, etc.”

Undoubtedly this question arises in connection with the provisions of section 2548 and other related sections of the General Code. Section 2548 G. C. provides:

“When a person becomes a county charge or an inmate of a city infirmary and is possessed of or is the owner of property, real or personal, or has an interest in remainder, or in any manner legally entitled to a gift, legacy or bequest, whatever, the county commissioners or the proper officers of the city infirmary shall seek to secure possession of such property by filing a petition in the probate court of the county in which such property is located, and the proceedings therefor, sale, confirmation of sale and execution of deed by such county commissioners or officer of the city infirmary shall in all respects be conducted as for the sale of real estate by guardians. The net proceeds thereof shall be applied in whole or in part, under the special direction of the county commissioners or the proper city officer as is deemed best, to the maintenance of such person, so long as he remains a county charge or an inmate of a city infirmary.”

Your attention is also invited to section 9394 G. C., which is as follows:

“All policies of life insurance upon the life of any person, which may hereafter mature, and which have been or shall be taken out for the benefit of, or bona fide assigned to the wife or children, or any relative dependent upon such person, or any creditor, shall be held subject to a change of

beneficiary if desired, for the benefit of such wife or children, or other relative or creditor, free and clear from all claims of the creditors of such insured person; and the proceeds or avails of all such life insurance shall be exempt from all liabilities from any debt, or debts, of such insured person."

In considering your inquiry it must be kept in view that, generally speaking, the proceeds arising from an insurance policy maturing at the death of the insured do not inure to the benefit to the decedent, but rather to the beneficiary named in the policy. It is the well settled law of this state that where one is properly named as beneficiary in a life insurance policy, the policy may not be assigned without his consent. See *Schlacter, Admr., vs. Teepen*, 24 O. C. C. (n. s.) 30; *Manhattan Life Insurance Company vs. Smith*, 44 O. S. 156; *Union Central Life Insurance Company vs. Buxer*, 62 O. S. 385. Of course, where the right is reserved to change the beneficiary at the will of the insured or holder of the policy, this may be done. Under such circumstances, it is believed that if the holder of the policy should, of his own volition, have the beneficiary changed and the county named as such, this procedure would be proper. Of course, if the proceeds from the policy, under the terms thereof, are payable to the estate of the insured, undoubtedly funds arising from such source could be appropriated by the county under the provisions of section 2548 G. C.

In specific answer to your inquiries it is the opinion of this department that

(1) there is no authority whereby an inmate of an infirmary and the beneficiaries of a policy insuring the life of said inmate can be compelled to transfer their interests to the county to defray expenses of the county in connection with the burial or care of said inmate;

(2) where the insured is an inmate in the county infirmary, the holder and beneficiary of the policy may assign their interests to the county for the purpose of defraying the county expenses in connection with caring for the insured; however, there is no legal method to compel such a procedure;

(3) in the event the insured is the holder of the policy and has reserved the right to change the beneficiary named therein, he may name the county as such without the consent of the beneficiary;

(4) where the insured is not the holder of the policy he cannot in any manner take such action as will bind the holder or beneficiary;

(5) where the proceeds from the policy are payable to the estate of the insured, such funds may be appropriated by the county under the provisions of section 2548 G. C.

Respectfully,
JOHN G. PRICE,
Attorney-General.