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1. PHYSICIAN AND SURGEON — FEES FOR PROFESSIONAL SERVICES — WHERE INDIGENT PERSON HAS LEGAL SETTLEMENT IN TOWNSHIP, TRUSTEES HAVE NO POWER OR AUTHORITY TO PAY SUCH FEES — SERVICES DEFINED AS POOR RELIEF — SECTIONS 3391 TO 3391-12 G.C.
2. STATUS WHERE INDIGENT PERSON HAS LEGAL SETTLEMENT IN TOWNSHIP, OUTSIDE OF CITY, SUCH SERVICES CONSTITUTE "POOR RELIEF" AND SHOULD BE FURNISHED BY COUNTY COMMISSIONERS AS LOCAL RELIEF AUTHORITY — SECTION 3391-2 G.C.

SYLLABUS:

1. Since the enactment of Sections 3391 to 3391-12, both inclusive, of the General Code (118 O.L. 710), boards of township trustees, as such, have no power or authority to pay a physician and surgeon for professional services rendered by him as such physician and surgeon, to an indigent person having a legal settlement in their township; services of a physician being defined as poor relief in Section 3391 of the General Code.

2. The services of a physician and surgeon, when rendered to an indigent person under circumstances defined in Section 3391-2 of the General Code, constitute "poor relief", and if such person has a legal settlement in a township and outside of a city, such "poor relief" should be furnished by the county commissioners as the local relief authority.

Columbus, Ohio, August 13, 1942

Hon. Kerns Wright, Prosecuting Attorney,
Van Wert, Ohio

Dear Sir:

I am in receipt of your request for my opinion reading:

"We would like your opinion as to who is liable for medical and surgical services rendered under the following circumstances.

The patient was an old age pensioner having conveyed her property to the State of Ohio by a trust deed. She became suddenly ill and required medical and surgical attention. The medical and surgical attention was rendered to her by a local physician and surgeon who immediately notified the Trustees of the Township in which the patient had her legal settlement.

May the trustees of the Township in which the patient has a legal settlement lawfully pay for medical and surgical attention rendered under the above circumstances? In the event the township trustees can not legally pay the obligation, then who is legally liable for the payment for the services rendered?"

By the enactment of Sections 3391 to 3391-12, both inclusive, of the General Code in 118 O.L. 710, the General Assembly has remodeled the method of administering "poor relief" as defined in such act. In general such statutes provide that the county commissioners shall administer "poor relief" in all that portion of the county lying outside of the geographical limits of the cities "to all persons therein in need of poor relief" (Section 3391-2, General Code), and within the cities such poor relief shall be so administered by the city council, unless an agreement has been entered into consolidating the administration of such districts.

It is thus evident that in that portion of the county outside of cities, the township trustees have no power to dispense "poor relief". Since I have set forth the reasons for such conclusion earlier opinions, I will not herein reiterate them. See 1939 Opinions of the Attorney General. As pointed out in such earlier opinions, Section 3391 of the General Code provides that for purposes of such act "Poor relief may take the form of 'work relief', 'direct relief' or 'medical care' as herein defined". Such section further defines "medical care" as used therein to mean "medicines and the services, wherever rendered, of a physician or surgeon * * * at public expense". If, therefore "poor relief" at public expense may only be furnished by the county commissioners in the district in question and may not be furnished by the township trustees, and the term "poor relief" includes the services of a physician or surgeon such as mentioned in your letter, it would seem that township trustees, as such, may not furnish or pay for such services.

In answering your last or alternative query, attention should be called to the provisions of Section 3391-2 of the General Code, which reads in part as follows:

"Local relief authorities shall administer poor relief in accordance with the following powers and duties:

1. In each local relief area, subject to the provisions of law,

poor relief shall be furnished by the local relief authority to all persons therein in need of such poor relief. As required by the condition of the applicant, such poor relief may afford either partial or total, temporary or continuing support. Poor relief shall be dispensed on a budgetary basis, and may be furnished either in the form of cash, or commodities and services, or both. Poor relief shall be granted only after sworn application therefor and proper home investigation to ascertain facts of need and available means of support. Thereafter, so long as poor relief is continued, there shall be re-application at intervals within three months and such further investigation and visitation from time to time as may be necessary to secure prompt information of any changes in the condition of recipients affecting their need of poor relief. Reasonable effort shall be made to secure support from persons responsible by law and from other sources as a means of preventing or reducing relief at public expense.

2. No person shall be eligible for poor relief if, being able and competent to perform labor, he shall refuse work relief or shall refuse employment, if available, except at a place where there is a labor dispute, when offered at reasonable wages and under reasonable conditions as determined by the local relief authority; or if, for the purpose of rendering himself eligible for poor relief, he has made an assignment or transfer of property within the two years immediately preceding his application for such poor relief. Except in case of emergency, every employable person applying for poor relief, before receiving poor relief, shall register with the free public employment service. Any person receiving poor relief may engage in temporary or partial employment and while so employed, his poor relief shall be adjusted accordingly. * * *

12. All poor relief orders or payments shall be given to the recipient in person upon his appearance at the office of the local relief authority or at substations approved by the state director, unless the recipient can show to the local relief authority good cause why he can not appear in person."

You will note in such section that certain limitations are placed upon the dispensing of poor relief. 1. It must be furnished on a budgetary basis. 2. It may be in the form of cash, commodities or services or a combination thereof. 3. It can be granted only after sworn application therefor and proper home investigation to ascertain the facts as to need and available means of support. 4. Investigation as to conditions must be remade and re-application therefor must be made at least every three months.

It must be remembered that the primary purpose of poor relief laws is for the welfare of the indigent and not for the purpose of en-

abling some person to collect remuneration for commodities or services performed. The administration of poor relief laws has been, by the Legislature, placed in a definite agency whose duty it is to determine the need for the poor relief at public expense and having determined such need to provide it. From Section 3391-2 of the General Code, above quoted, it would appear that unless an application for the furnishing of poor relief has been delivered to the poor relief authority, and such authority has determined that it is necessary to furnish poor relief at public expense, the authority has no power to provide such relief.

It would, therefore, appear that in the case presented in your inquiry there could be no obligation upon any person or authority to pay the bill for the medical care in question until the proper poor relief authority has made the necessary investigation to determine whether the person was indigent, in need of the particular type of poor relief and whether it should be furnished at public expense, rather than at the expense of some relative legally liable for the patient's support. The statute has placed certain discretion in such authorities not only to determine the necessity for the furnishing the relief, but also to determine whether it should be furnished at public expense or by persons legally liable for the support of the indigent.

Specifically answering your inquiries, it is my opinion that:

1. Since the enactment of Sections 3391 to 3391-12, both inclusive, of the General Code (118 O.L. 710), boards of township trustees, as such, have no power or authority to pay a physician and surgeon for professional services rendered by him as such physician and surgeon, to an indigent person having a legal settlement in their township; services of a physician being defined as poor relief in Section 3391 of the General Code.

2. The services of a physician and surgeon, when rendered to an indigent person under circumstances defined in Section 3391-2 of the General Code, constitute "poor relief", and if such person has a legal settlement in a township and outside of a city, such "poor relief" should be furnished by the county commissioners as the local relief authority.

Respectfully,

THOMAS J. HERBERT
Attorney General.