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HOSPITAL CARE FOR INDIGENTS:

1. CITIES AND TOWNSHIPS AUTHORIZED TO ARRANGE FOR SUCH CARE — LEGAL SETTLEMENT — SECTIONS 3476, 3480, 3480-1, 3484-2 G.C.
2. WHERE LEGAL SETTLEMENT WITHIN CITY OR TOWNSHIP, PRIVATE HOSPITALS, WHEN PROPER NOTICE GIVEN, ENTITLED TO JOINT AND REASONABLE PAYMENT FOR SUCH CARE.
3. STATUS WHERE INDIGENT HAS LEGAL SETTLEMENT IN COUNTY, CITY OR TOWNSHIP OTHER THAN SITUS WHERE HOSPITAL CARE RECEIVED — ESTABLISHED RATE OF COUNTY, CITY OR TOWNSHIP.

SYLLABUS:

1. Under the provisions of Sections 3476, 3480, 3480-1 and 3484-2, General Code, townships and cities are authorized to arrange for hospital care for indigents found therein whether or not such indigents have a legal settlement within the township or city wherein the services are rendered.

2. In instances where private hospitals render hospital services to indigents having a legal settlement within the township or city wherein the services are rendered, such township or city is liable in such amount as the trustees or proper officers deem to be just and reasonable when proper notice has been given in accordance with the terms of Section 3480, General Code.

3. Where an indigent has his legal settlement in a township, city or county, but other than the township or city wherein such person is found and hospital services rendered, the private hospital rendering such services may notify the trustees or proper officers of the city wherein such services are rendered. Thereupon the township or city shall be liable for the services thereafter rendered such person in such amount as such trustees or proper officers determine to be just and reasonable. This determination constitutes the established rate of the township or city, which rate may be recovered from the township, city or county of legal settlement by compliance with the provisions of Section 3480-1 or Section 3484-2, General Code.

Columbus, Ohio, July 8, 1942.

Hon. J. Dale McNamar, Prosecuting Attorney,
Newark, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion, which reads as follows:

“Request has been made of this office for an opinion clarifying certain duties of township trustees in connection with the hospitalization of indigent cases. In attempting to answer the questions presented, we were confronted with the problem of ascertaining the exact authority of township trustees to order such cases admitted for hospital treatment, together with the obligation to pay for such services rendered.

Specifically the question is under what section of the law the township trustees have authority to order indigent patients in for hospital treatment.

The person's indigency and legal settlement is, we will assume, not questioned. You may also assume that the case is one other than contagious. In this county there are no county, municipal or township hospitals. As a matter of practise the hospital in this city receives such cases as the ones under discussion in one of two ways, to-wit: first, where the township trustees notify the hospital in advance that an indigent patient is being sent in for treatment and that the township will pay for such services rendered, in which case the patient is admitted with the knowledge of his financial status beforehand on the part of the trustees; or, second, the hospital receives the patient, discovers him to be indigent and, within three days, notifies the proper officials of the township in writing.

It is apparent that the authority for this procedure must be found in one of the following sections, 3480, 3480-1 or 3484-2, General Code. We have examined the opinion rendered by you under date of September 7, 1940, numbered 2733, in which you indicate that the duty of the trustees to furnish services of a hospital to indigents is contained in Section 3480-1. However, a strict interpretation of this section would imply that the hospital rendering such service is a county, municipal or township hospital, or under the control of a political subdivision. As we have indicated, there are no such hospitals located in this city or county.

We would also like to raise the question as to the authority for the hospital, other than a county, municipal or township hospital, rendering services to an indigent patient, to notify the township trustees of the township in which such patient has a legal settlement. If the authority to enter patients and the obligation to pay for such services is construed to be included in

the term 'medical services' as set forth in Section 3480, are the township trustees required to pay the established rate of the hospital or what may be determined to be the reasonable charge for such services?"

The questions presented in your inquiry will be considered and answered in the light of the following circumstances: first, where the indigent is hospitalized within the township or municipal corporation of his legal settlement; second, where the indigent is hospitalized within the county of his legal settlement, but not within the township or municipal corporation thereof; and, third, where the indigent is hospitalized within a county other than that of his legal settlement.

The problems set forth in the foregoing situations necessitate an examination of the following sections of the General Code:

Section 3476, General Code:

"Subject to the conditions, provisions and limitations herein, 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 (G.C. No. 3476 et seq.) 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 as described in sections 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they can not be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city."

Section 3480, General Code:

"When a person in a township or municipal corporation 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, or proper municipal officer. 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 or officer, in writing, that he is attending such person, and thereupon the township or

municipal corporation shall be liable for relief and services thereafter rendered such person, in such amount as such trustees or proper officers determine to be just and reasonable. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered.”

Section 3480-1, General Code:

“When an indigent person requiring medical services or the services of a hospital, in cases other than contagious, has a legal settlement in a municipality or township within the same county but other than that in which the service is rendered, and such person is unable to pay the expenses of such service, the county, municipality or township rendering such service shall notify, in writing, the proper officials of the municipality or township of legal settlement of such person that services are being rendered. Such written notice shall be sent within three days if the fact of non-residence is disclosed upon the beginning of such service or admission to such hospital, or within three days after discovery of such fact if the same be not disclosed as above. Thereupon the municipality or township of legal settlement shall be liable for such services at the established rate of the county, municipality or township rendering such service and shall pay for the same within thirty days after date of the sworn statement covering such expenses, which sworn statement shall be sent to the proper officials of the municipality or township of legal settlement within twenty days after the discharge of such person. If the notice of such service be not sent to the municipality or township of legal settlement within three days after the disclosure by such person or the discovery of such non-residence, such municipality or township shall be liable only after the receipt of such notice. Nothing herein contained shall prevent the removal of such person, or the assumption of care of such person, by the municipality or township of legal settlement, at its expense, but such removal or assumption shall not relieve such municipality or township from liability for the expenses theretofore incurred by the county, municipality or township rendering such service. The municipality or township of legal settlement is hereby subrogated to all the rights of the county, municipality or township rendering such service to such person.”

Section 3484-2, General Code:

“When a person requiring medical services 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, and is unable to pay the expenses of such service, and such service is rendered by a county, municipality or town-

ship, the county, municipality or township rendering such service shall notify in writing the county commissioners of the county of legal settlement that such service is being rendered. Such written notice shall be sent within three days if the fact of non-residence is disclosed upon the beginning of such service, or admission to such hospital, or within three days after the discovery of such fact, if the same be not disclosed as above. Within twenty days after the discharge of such person, or the rendering of the last service, the county, municipality or township rendering such service shall send a notice thereof, and a sworn statement of its expenses, at the established rate of the county, municipality or township therefor, to the county commissioners of the county of legal settlement. Thereupon the county of legal settlement shall be liable to the county, municipality or township rendering such service for the expenses of such service, including hospital service, at the established rate of the county, municipality or township therefor, and shall pay for the same within thirty days after date of the sworn statement of expenses. If the notice of the rendering of such service, required to be sent by the county, municipality or township rendering same, be not sent within three days after the disclosure by such person, or the discovery of such non-residence, the county of legal settlement shall be liable only after the receipt of such notice. Nothing herein contained shall prevent the removal or assumption of care of such person by the county of legal settlement, at its expense, but such removal or assumption shall not relieve such county of liability for the expenses theretofore incurred by the county, municipality or township rendering such service. Any such person who does not, upon discharge from such hospital, or upon the rendering of the last service, pay the expenses of such service, at the established rate therefor, shall for the purpose of this act, be deemed indigent insofar as the municipality or township rendering such service is concerned. The county of legal settlement is hereby subrogated to all the rights of the municipality or township rendering such service to such person."

The foregoing sections are all in *pari materia* and in view of certain latent ambiguities they must be read together in order to ascertain the true legislative intent with respect to the responsibility for costs entailed in the hospitalizing of indigents.

That townships, cities and counties are still responsible for the reasonable costs in such cases is indicated by the limitations imposed upon local relief authorities. Such local relief authorities charged with the duty of providing poor relief are confined in their activities in regard to the rendition of medical care to the administering of medicines, physicians' and surgeons' services and the emergency services of a dentist. In fact, since the enactment of House Bill No. 675 (Section 3391, et seq., General Code) by the 93rd General Assembly, the sole duty of townships,

cities and counties in connection with poor relief is that of furnishing hospital services to indigents.

Before the enactment of House Bill No. 675 no fine distinctions were drawn with respect to the differences in the meaning of such terms as "public relief," "medical care" and "hospital services." In the case of *Mercy Hospital v. Menegal, et al.*, 32 O.N.P. (N.S.) 2, this fact was well illustrated by the court in its discussion of Sections 3476, 3480 and 3480-1, General Code, viz.:

"When the two sections last quoted are read it is seen that the duty to render medical care is less clearly imposed than is that to furnish relief. It might even be contended that there is no duty to furnish hospital care. 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 are contained within the same legislative chapter and hence must be read in *parimateria*. 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 one is often useless without the other but because of the context of Sections 3480 and 3480-1 this is the manifest legislative intent. It is likewise to legislative intent that when medical and hospital services are thus required they must be furnished by the city or township of legal settlement, and may not be required of the village in which the person lives; for Section 3476 alone imposes the duty, Sections 3480 and 3480-1 are merely descriptive of it, and when the word 'municipal corporation' is used in the latter sections it can refer only to the municipal corporation upon which such duty is imposed and hence refers to cities alone as clearly as though the Legislature had used that language."

From the foregoing, it is evident that it is the duty of townships and cities to render hospital services to indigents having a legal settlement therein. Since the duty exists, the authority to order said persons in for hospital treatment would necessarily be implied. Substantiating this proposition is the case of *Trustees of Noble Township v. Way*, 1 O.C.D. 136, wherein the court said:

"The trustees, in a proper case, under Section 1491 (now Section 3476, General Code), may furnish the relief, and if the trustees take the initiative and solicit a person to furnish the relief in a proper case, the township becomes liable for its reasonable value."
(Parenthetical matter mine.)

Accepting the proposition that a township or city may assume the

initiative and solicit hospital care for an indigent patient who has a legal settlement therein we are next confronted with the question as to whether they may so act in cases where the indigent has either a legal settlement in another township or city in the same county or a legal settlement in another county in the state.

When read alone Section 3476, supra, would seem to indicate that the township or city has jurisdiction only in those instances where the indigent has a legal settlement within that particular township or city. When, however, said section is read in connection with Sections 3480, 3480-1 and 3484-2, supra, it is clear that the General Assembly contemplated cases where the township or city would render services to an indigent found therein even though his legal settlement was elsewhere in the state. If such were not the case, it would have been unnecessary for the General Assembly to establish the procedure whereby the township or city rendering the service could recover from the township, city or county of legal settlement. In this connection, it was held in Opinion No. 3726, Opinions of the Attorney General for the year 1931, Volume III, page 1321, that:

“Where an indigent woman is about to be confined and is not in the county of her legal settlement it is the duty of the authorities of the township or municipal corporation where she is found to furnish the services of a physician under Section 3480 of the General Code.”

I come now to your second question. In the consideration thereof it is necessary to ascertain whether there is authority for a private hospital to notify the officials of a township or city in which an indigent receiving hospitalization has a legal settlement that hospital services were rendered to such indigent. From the above statutes it is at once apparent that such authority exists only in cases where the township or city of legal settlement and the place wherein the services are rendered are the same.

Section 3480, supra, while not specifically referring to hospitals, is sufficiently broad to include hospitalization.

In Opinion No. 3758, Opinions of the Attorney General for the year 1926, page 452, the then Attorney General, in the course of his opinion, with respect to Section 3480, supra, said:

“While this section relates primarily to the services of a physician or surgeon, I am inclined to the view that it is broad enough to include the necessary incidental hospital care, * * *.”

In instances where the township or city wherein the services are rendered is not the township or city of legal settlement, private hospitals are not authorized to notify directly such township or city. In such cases, by the provisions of Section 3480, supra, they are only authorized to notify the township or city wherein the person was found and the services rendered. Upon such notification said township or city then becomes liable to the hospital for that amount which the trustees or proper officers determine to be just and reasonable. After such notification the township or city is in effect rendering the services and the provisions of Sections 3480-1 and 3484-2, supra, then become applicable. In such a situation, it then becomes incumbent for said township or city to notify the township or city of legal settlement if the indigent has a legal settlement in another township or city in the same county. If, however, the indigent has a legal settlement in a county other than the one in which the hospital services are rendered, such notice should be directed to said county. Thereafter the township, city or county of legal settlement, as the case may be, is liable for such services at the established rate of the city or township rendering such services. Of course, the established rate in such case is that which the township or city deems to be just and reasonable under the provisions of section 3480, supra.

In specific answer to your inquiry, therefore, it is my opinion that:

1. Under the provisions of Sections 3476, 3480, 3480-1 and 3484-2, General Code, townships and cities are authorized to arrange for hospital care for indigents found therein whether or not such indigents have a legal settlement within the township or city wherein the services are rendered.

2. In instances where private hospitals render hospital services to indigents having a legal settlement within the township or city wherein the services are rendered, such township or city is liable in such amount as the trustees or proper officers deem to be just and reasonable when proper notice has been given in accordance with the terms of Section 3480, General Code.

3. Where an indigent has his legal settlement in a township, city or

county, but other than the township or city wherein such person is found and hospital services rendered, the private hospital rendering such services may notify the trustees or proper officers of the city wherein such services are rendered. Thereupon the township or city shall be liable for the services thereafter rendered such person in such amount as such trustees or proper officers determine to be just and reasonable. This determination constitutes the established rate of the township or city, which rate may be recovered from the township, city or county of legal settlement by compliance with the provisions of Section 3480-1 or Section 3484-2, General Code.

Respectfully,

THOMAS J. HERBERT
Attorney General.