

2034

1. HOSPITALIZATION OF INDIGENT PERSON—LEGAL SETTLEMENT IN TOWNSHIP—TOWNSHIP NOT LIABLE FOR PAYMENT OF HOSPITAL BILLS UNLESS SERVICES WERE IN CONNECTION WITH EMERGENCY CASE.
2. COUNTY DEPARTMENT OF WELFARE—VESTED BY LAW WITH POWERS AND DUTIES RESPECTING ADMINISTRATION OF POOR RELIEF—LIABLE FOR PAYMENT OF MEDICAL CARE AND HOSPITAL SERVICES FOR THE NEEDY—SECTION 2511-1 G. C.

SYLLABUS:

1. A township is not liable for the payment of hospital bills incurred by reason of the hospitalization of an indigent person having a legal settlement in such township, unless the hospital services rendered were in connection with an emergency case.

2. A county department of welfare, established pursuant to the provisions of Section 2511-1, General Code, is vested by law with the powers and duties respecting the administration of poor relief, and by reason thereof, is liable for the payment of medical care and hospital services for needy persons.

Columbus, Ohio, July 8, 1947

Hon. Erwin L. Clemens, Prosecuting Attorney, Defiance County
Defiance, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Under Section 3070-17 of the General Code of the State of Ohio known as the Child Welfare Act, does the liability for care of a diabetic child become the responsibility of the township trustees or the child welfare board of Defiance County?”

A difference of opinion is existing in this county between the township trustees and the child welfare board as to whether the township trustees are liable for the hospitalization and the child welfare board is liable for the medical treatment. I am of the opinion that the statute places all liability upon the child welfare board.

The parents of this child are recipients of old-age pension.”

Since receiving your letter, I have learned in subsequent correspondence with you that you do not have a child welfare board and that your question relates to the county board of welfare and not to the child welfare board.

Prior to June 6, 1939, poor relief was handled by township trustees for each township in accordance with the powers and duties set forth in Sections 3476 and 3480, General Code.

The pertinent part of Section 3476, General Code, is as follows:

“Subject to the conditions, provisions and limitations herein, the trustees of each township * * * shall afford at the expense of such township * * * public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships * * * shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township * * * as described in Sections 3477 and 3479.”

Section 3480, General Code, reads as follows:

“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 the 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. If such services consist of hospital care rendered such person, such hospital shall be paid such amount as may be agreed upon by such trustees or proper officers and such hospital, or if no such agreement is made, then such hospital shall be paid the established ward rate for such care in such hospital. 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.”

In 1939, the General Assembly enacted Sections 3391 to 3391-12, General Code, which is designated as Chapter 8A, Poor Relief. By virtue

of these sections, the administration of poor relief passed to local relief areas.

“Poor relief” is defined in Section 339I, General Code. Pertinent parts of that section are:

“For the purposes of this act:

‘Poor relief’ means food, clothing, shelter and other commodities and services necessary for subsistence, or the means of securing such commodities and services, furnished at public expense to persons in their homes * * *. ‘Poor relief’ may take the form of ‘work relief,’ ‘direct relief,’ or ‘medical care’ as herein defined. ‘Poor relief,’ as herein used, shall be synonymous with ‘poor relief’ as used in Amended Senate Bill No. 4, entitled, ‘An act to provide for submitting the question of levying additional taxes to the electors of the subdivision * * *.’

‘Medical care’ means medicines and the services, wherever rendered, of a physician or surgeon * * * furnished at public expense.”

An examination of Amended Senate Bill No. 4, referred to above, shows that the term “poor relief” includes “hospitalization.”

Section 339I-1, General Code, provides in part that:

“* * * the territory in each county outside the corporate limits of cities therein shall be a local relief area hereinafter referred to as the ‘county local relief area,’ the local relief authority for which shall be the *board of county commissioners of the county*; and each city shall be a local relief area, the local relief authority for which shall be the proper board or officer of the city; provided, however, that any board of county commissioners, upon request of the township trustees of any township in the county, shall, by resolution adopted at any time after this act becomes effective, designate such township trustees to act as its agent in the administration of poor relief within such township, to the extent provided in such resolution; * * *” (Emphasis added.)

The remaining provisions of this section provide for other combinations of city and county poor relief administrators.

Section 339I-2, General Code, sets forth the powers and duties of local relief authorities. The pertinent part of subsection 1 provides:

“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.”

(Emphasis added.)

Subsequently, the 95th General Assembly passed an act "To provide for the consolidation of county welfare activities" (120 O. L. 430). This act was codified as Sections 2511-1 to 2511-11, inclusive, of the General Code.

Under the provisions of Section 2511-1, General Code, the county commissioners of any county have authority to establish a county welfare department. That section reads in part as follows:

"The county commissioners of any county may by resolution which has been unanimously adopted, establish a county department of welfare which, when so established, shall be governed by the provisions of this act. Such department shall function from and after the date fixed in such resolution, which date shall be not less than thirty days nor more than ninety days after the adoption of such resolution, but not before the first day of January, 1944. The county department of welfare shall consist of a county director of welfare appointed by the board of county commissioners, and such assistants and other employees as may be deemed necessary for the efficient performance of the welfare service of the county."

The powers and duties of the director are stated in the first sentence of Section 2511-2, General Code, as follows:

"Under the direction of the board of county commissioners, the county director of welfare shall have full charge and control of the county department of welfare."

Section 2511-4, General Code, reads in part:

"The county department of welfare shall have the following powers and duties: * * *

(c) To administer poor relief and burials in so far as the administration of such relief and burials was heretofore imposed upon the board of county commissioners."

It is therefore clear that the actual administration of "poor relief * * * in so far as the administration of such relief * * * was heretofore imposed upon the board of county commissioners" is, by the provisions of these statutes, vested in the county department of welfare by the fact of the creation of such department.

It can readily be seen from the above that the administration of poor relief passed from townships to local relief areas and then to the county board of welfare.

However, it is provided in subsection 8, Section 339I-2, General Code, as follows:

“Except as modified by the provisions of this act, Section 3476 and other sections of the General Code of like purport shall remain in full force and effect and nothing in this act shall be construed as altering, amending, or repealing the provisions of Section 3476 of the General Code relative to the obligation of the county to provide or grant relief 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 that they cannot be satisfactorily cared for except at the county infirmary or under county control.”

After the Poor Relief Act (Sections 339I to 339I-12 of the General Code) was passed, and in view of its terms, the question of liability of township trustees for hospital services was decided in an opinion of the Supreme Court in *The Mansfield General Hospital Corporation v. Swank, et al., Trustees of Jefferson Township, Richland County*, 141 O. S., 545. Zimmerman, J., in the opinion at pages 551 and 552, said:

“In its opinion the Court of Appeals pointed out that for some time before the enactment of Section 339I, et seq., General Code, it had been accepted and understood that Sections 3476 and 3480, General Code, were sufficiently broad to create liability on the part of a city or township for the emergency hospitalization of their indigent poor (See *Mercy Hospital v. Monegay*, 32 N. P. (N. S.), 1; Attorney General’s Opinions, 1935, Vol. 1, page 387); that in subsection 8 of Section 339I-2, General Code, the General Assembly expressly stated that Section 3476, General Code, and the sections related to it should remain largely undisturbed, and that in passing Section 339I et seq., General Code, it was not the apparent purpose to absolve cities and townships from the duty of paying for the emergency hospital care of their indigent residents, nothing having been said on that subject. * * *

Thereupon, the Court of Appeals, reading Sections 3476 and 3480, in *pari materia*, pronounced the following finding and declaration:

‘First. That under the provisions of General Code Sections 3476 and 3480, township trustees are liable for emergency hospital services rendered to indigent people who have a legal settlement in their respective townships, in such amount as such trustees determine to be just and reasonable, provided that due notice is given as directed by Section 3480.

Second. The term "public support or relief" as used in General Code, Section 3476, in connection with Section 3480, now covers only emergency hospitalization.

Third. Township trustees are not now liable for hospital services for people who have a legal settlement therein, in the absence of contract, unless the case be an emergency one.' * * *

It being the opinion of this court that the Court of Appeals correctly analyzed and interpreted the controlling legislation, its judgment is affirmed."

There has been no change in the provisions of Section 3391-2, General Code, and the Legislature is presumed to know the existence of statutes in effect at the time of an enactment. Not seeing fit to make any change in that section nor to make any specific reference to it, it must be presumed that the Legislature intended to transfer to the county department of welfare, upon the establishment of such department, all those powers and duties theretofore imposed upon county commissioners in the administration of poor relief.

In view of the above, and in specific answer to your question, it is my opinion, and you are advised:

1. Township trustees are not liable for hospital services for needy people who have a legal settlement therein, in the absence of contract, unless the same be an emergency one.

2. A county department of welfare, established pursuant to the provisions of Section 2511-1, General Code, is vested by law with the powers and duties respecting the administration of poor relief, and by reason thereof is liable for the payment of medical care and hospital services for needy persons.

Respectfully,

HUGH S. JENKINS,
Attorney General.