

135.

PHYSICIAN—MEDICAL AID—CANNOT COLLECT FROM GENERAL FUND OF COUNTY FOR AID TO INDIGENT PERSONS—SECTION 3480, G. C., PROVIDES FOR PAYMENT FROM TOWNSHIP TRUSTEES OR MUNICIPALITY—PHYSICIAN MAY NOT RECEIVE PAYMENT FROM GENERAL COUNTY FUND FOR AID TO PERSONS INCARCERATED IN COUNTY JAIL IF NO CONTRACT WITH COUNTY COMMISSIONERS OR APPOINTMENT BY COMMON PLEAS COURT.

*SYLLABUS:*

1. *A physician rendering medical aid to indigent persons can not collect for such services from the general fund of the county, but is restricted by general code Section 3480 in seeking payment from the township trustees or proper municipal corporation.*

2. *In the absence of express appointment by the Court of Common Pleas, or in the absence of a contract with the County Commissioners, a physician rendering medical aid to incarcerated persons in a county jail may not receive payment therefor from the general fund of the county.*

COLUMBUS, OHIO, February 14, 1939.

HON. FERDINARD E. WARREN, *Prosecuting Attorney, Putnam County, Ottawa, Ohio.*

DEAR SIR: This is to acknowledge receipt of your letter of January 23rd in which you request my opinion as follows:

“I would like your opinion on the following matter:

“One Dr. L. M. Piatt, of Ottawa, Ohio, is a part time Health Commissioner for Putnam County, appointed by the Board of Health and paid by the County out of its general fund. He has been taking care of some indigent cases and has presented his bill for payment. Can this bill be allowed and paid by the county?

“Also, can he be paid for rendering medical services to persons who are incarcerated?”

In answer to your first question, while indigent persons may receive medical assistance under the so-called “poor relief laws,” however, Section 3480 of the General Code of Ohio, specifically sets out and provides how such medical relief may be obtained, and you must be guided by the provisions contained therein. I quote 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 physicians called or attending shall immediately notify such trustees or officers, 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.”

If, in the instant case the physician was not under contract, and notice was not given to the township trustees or proper municipal officers, of the medical assistance rendered the indigent parties, then it is my opinion that the claim now presented should be rejected and payment refused.

In reply to your second inquiry, I desire to call your attention to Sections 3162 and 3177 of the General Code of Ohio, and I quote in part from Section 3162:

“The Court of Common Pleas shall prescribe rules for regulation and government of the jail of the county, upon the following subjects:

\* \* \*

“5. The employment of medical or surgical aid when necessary.”

Under Section 3177, it provides as follows:

“County Commissioners \* \* \* may appoint a physician to the jail at such annual or other salary as they may deem reasonable.”

It is my opinion, that in the absence of an appointment by the Court of Common Pleas, or in the absence of an express contract with the County Commissioners for rendering medical aid and assistance to incar-

cerated persons, in a county jail, such services can not be paid out of the funds of the county, and this bill should likewise be rejected and payment refused.

Very truly yours,

THOMAS J. HERBERT,

*Attorney General.*