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COUNTY COMMISSIONERS—NO AUTHORITY TO PAY CLAIM FOR MEDICAL EXPENSES—PRECAUTIONARY TREATMENTS—INDIVIDUALS' PARTICIPATION IN CASE OF PERSON BITTEN OR INJURED BY DOG AFFLICTED WITH RABIES.

SYLLABUS:

County commissioners have no authority to pay a claim for medical expenses incurred in the taking of precautionary medical treatments by individuals who have assisted and taken care of a person bitten or injured by a dog afflicted with rabies.

COLUMBUS, OHIO, March 27, 1939.

HON. T. B. WILLIAMS, *Prosecuting Attorney, New Lexington, Ohio.*

DEAR SIR: Your recent request for my opinion presents the question as to whether a bill for precautionary medical treatment given persons who assisted and cared for a party bitten by a dog afflicted with rabies should be paid by the county commissioners.

This question involves the interpretation of Sections 5851 and 5852 of the General Code. Section 5851, General Code, provides as follows:

“A person bitten or injured by a dog, cat or other animal afflicted with rabies, if such injury has caused him to employ medical or surgical treatment or required the expenditure of money, within four months after such injury and at a regular meeting of the county commissioners of the county where such injury was received, may present an itemized account of the expenses incurred and amount paid by him for medical and surgical attendance, verified by his own affidavit and that of his

attending physician; or the administrator or executor of a deceased person may present such claim and make such affidavit. If the person so bitten or injured is a minor such affidavit may be made by his parent or guardian."

Section 5852, General Code, provides as follows:

"The county commissioners not later than the third regular meeting, after it is so presented, shall examine such account, and, if found in whole or part correct and just, shall order the payment thereof in whole or in part to the patient and to the physician who rendered such treatment, in accordance with their respective claims, but a person shall not receive for one injury a sum exceeding two hundred dollars."

It will be noted that Section 5851, supra, only provides for the payment of medical expenses to a person bitten or injured by a dog or other animal afflicted with rabies. A question somewhat analogous to the one herein presented, was considered by the then Attorney General in 1925. In his opinion (O. A. G. 1925, page 723) it is stated in the syllabus thereof:

"County commissioners may not lawfully approve and pay a claim for funeral expenses presented by the administrator of a decedent who has died from hydrophobia resulting from having been bitten by a dog afflicted with rabies."

At page 724 of the 1925 Opinions of the Attorney General, it was stated:

"Under this section (Section 5851, General Code) the only claim which may be presented is a claim for medical or surgical treatment occasioned by being bitten or injured by a dog, cat or other animal afflicted with rabies." (Parenthetical matter the writer's.)

In 32 O. J. at page 734, the following language is used:

"Public funds can be disbursed only by clear authority of law."

In the instant situation, the claim is not one for medical or surgical treatment occasioned by being bitten or injured by a dog or other animal afflicted with rabies. Consequently, there is no authorization, either express or implied, in the law for the payment of the claims in the situation presented by you.

Therefore, in specific answer to your inquiry, I am of the opinion

that county commissioners have no authority to pay a claim for medical expenses incurred in the taking of precautionary treatments by persons who have assisted or taken care of a person bitten or injured by a dog afflicted with rabies.

Respectfully,

THOMAS J. HERBERT,
Attorney General.