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AID FOR AGED, DIVISION OF—WHEN INDIGENT PERSON WHO HAD BEEN RECEIVING AID DIED AS INMATE OF STATE HOSPITAL FOR INSANE, STATE OF OHIO SHALL BEAR EXPENSE OF BURIAL UNLESS BODY CLAIMED BY PROPER PERSONS.

SYLLABUS:

When an indigent person who had been receiving aid from the Division of Aid for Aged died as an inmate of a State Hospital for the Insane, the State of Ohio shall bear the expense of burial unless the body is claimed by the proper persons.

Columbus, Ohio, December 15, 1949

Hon. C. L. Stout, Secretary-Treasurer
The Board of Embalmers and Funeral Directors of Ohio
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“I would like to have an opinion on the following. If a person who had been receiving aid from the State Department of Aid for the Aged and had been placed in the State Hospital for the Insane, would the County Commissioners or the trustees of the township be liable for the burial expenses.”

Section 1815-11, General Code, states as follows:

“The state shall bear the expense of the burial of an indigent inmate who dies in a state hospital for the mentally ill, feeble-minded or epileptic, or in a penal, reformatory or correctional institution, if the body is not claimed for interment at the expense of friends or relatives, or is not delivered for anatomical purposes

or for the study of embalming in accordance with the provisions of section 9984 of the General Code. When the expense is borne by the state, interment shall be in the institution cemetery or other place provided by the state. It shall be the duty of the managing officer of the institution to provide at the grave of such person a metal, stone or concrete marker on which shall be inscribed the name and age of such person and the date of death."

Information from your office reveals that the person in question was indigent at time of death. It will be noted that this statute provides that the state shall bear the expense of burial of indigent inmates who die in a state hospital for the mentally ill.

Section 1359-10, General Code, states as follows:

"Upon the death of a recipient of aid a sum of not to exceed \$140.00 may be ordered paid to the proper person entitled thereto to defray the burial expenses of such deceased person. The cost of the grave shall be paid by the division.

"An application, under oath, for such an amount for burial expenses shall be filed by the proper person entitled thereto.

"An itemized sworn statement of the burial expenses must be submitted by the undertaker.

"Upon the death of a recipient of aid, the division may defray any unpaid living expenses of such recipient incurred within a period of thirty days immediately preceding death in an amount not to exceed the amount of aid to which such recipient would have been entitled for such thirty-day period and which was not otherwise paid. Such final warrant or warrants shall be paid by the treasurer of state upon warrants drawn by the auditor of state."

This section would appear to involve only those persons who are receiving aid at the time of their death. From your request it would seem that the person did not receive aid after being committed to the State Hospital for Insane. Thus, this section would not apply.

I can find no authority whatever which provides that either the County Commissioners or the Township Trustees are to be liable for the burial expenses of such a person. Therefore, I believe Section 1815-11, General Code, will govern in this instance and that the state will bear the expense of burial unless the body is claimed by the proper persons.

Respectfully,

HERBERT S. DUFFY,
Attorney General.