

such compensation can be legally paid only upon clear statutory authority therefor.

Specifically answering your inquiry it is my opinion that the provisions of Section 7251-1, General Code, do not authorize the payment of the personal expenses of a deputy sheriff, from the appropriation made by the county commissioners pursuant to that statute.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

4321.

HOSPITAL REIMBURSEMENT ACT—AFFIDAVIT OF INDIGENCY MAY BE MADE PRIOR TO NINETY DAYS AFTER TERMINATION OF HOSPITAL CASE.

SYLLABUS:

The affidavit of indigency required by virtue of Section 6308-10, General Code, may be made prior to ninety days after the termination of the hospital care.

COLUMBUS, OHIO, June 6, 1935.

HON. FRANK WEST, *Registrar, Bureau of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads as follows:

“Section 6308-7 of the General Code of Ohio defines ‘indigent patient’ for the purpose of the law providing for the reimbursement to hospitals for care given indigent persons injured in motor vehicle accidents. This definition is further clarified in Opinions of the Attorney General, No. 2332, dated February 28, 1934.

Section 6308-10, Art. 5, requires that the claim for reimbursement for the cost of the care of an indigent patient shall be made in a form which shall show, among other things, ‘the affidavit of the indigent patient, if living’.

Your opinion is respectfully requested as to the following:

Shall such affidavit of indigency be made no sooner than ninety days after the termination of the patient’s care?”

Section 6308-7, General Code, provides the following definition of an indigent patient:

“ * * * ‘Indigent patient’ means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay for the cost of such care and whose account therefor remains unpaid at the expiration of ninety days after the termination of such care; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen’s compensation act of this or any other state or country. A person injured by the operating of a motor vehicle shall be deemed unable to pay such charges if it shall appear that, should an action be brought and judgment secured for the amount thereof against him, or against any other per-

son legally responsible for his care, execution thereon would be unavailing."

Section 6308-10, General Code, provides in part:

"At the time of making any monthly report each hospital may present a statement of its claim for reimbursement for the cost of the care of each indigent patient, which claim has matured within the month covered by the report then due or within any previous month. Each such claim shall be made in the form prescribed by the registrar of motor vehicles and shall show the following:

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5. The affidavit of the indigent patient, if living, and the statement of a township trustee, municipal officer or director or like representative of a social agency engaged in the relief of the poor, having knowledge of the facts, showing that the indigent patient is unable to pay such hospital charges. * * *

Although Section 6308-7, General Code, *supra*, defines an "indigent patient" and Section 6308-10, General Code, makes provision for an affidavit to be made by such patient, nowhere in the Hospital Reimbursement Act is it stated when the affidavit must be made. That is, if a person is unable to pay for the cost of the hospital care and his "account remains unpaid at the expiration of ninety days after the termination of such care", such person is, for the purpose of the Hospital Reimbursement Act, an "indigent patient". Therefore it follows that if the party made his affidavit of indigency at the time of his discharge from the hospital and if "his account remains unpaid at the expiration of ninety days after the termination of such care" such affidavit is an affidavit of an indigent patient and would satisfy the conditions laid down in Section 6308-10 of the General Code quoted *supra*.

Additional support for this conclusion is to be found in subdivision 4 of Section 6308-10, General Code, which provides with reference to the claim which the hospital must make."

"4. A statement under oath, showing the effort made by the hospital to collect the amount of the claim from the indigent patient, and the amount, if any, collected from such patients, or any other person on his account."

It certainly was not the legislative intent that hospitals were to make no attempt to collect the amount of their claim for reimbursement until the patient had been discharged for a period of ninety days or more, and consequently in construing both subdivisions 4 and 5 of Section 6308-10, the words "indigent patient" should not be construed to mean that a person is not an indigent patient until the period of ninety days has elapsed from the date of their discharge from the hospital.

Moreover it was held in my opinion to be found in Opinions of the Attorney General for 1934, Vol. 1, page 234, as disclosed by the first branch of the syllabus:

"1. Hospitals entitled to the benefits of House Bill 80 of the 90th General Assembly are entitled to reimbursement for the care and treatment of *non-resident* indigent patients suffering motor vehicle injuries within this state, which injuries occurred on or after the effective date of the act." (Italics the writer's)

In the case of non-residents and inter-county transients the practical difficulties of obtaining an affidavit of indigency ninety days after the expiration of hospital care are apparent, and in many cases such affidavit could not possibly be obtained. It was stated at page 237:

“ * * * The entire act is expressive of humanitarian purposes and is to secure prompt hospital treatment for all indigents incurring motor vehicle injuries within the confines of the state. * * * ”

It is my opinion that the General Assembly did not intend from the language used in the Act that the affidavit of the indigent patient could not be made until ninety days after the expiration of the hospital care, as in many cases if such were required it would be impossible for such hospitals which are neither organized nor operated for profit, to obtain payment of legitimate claims. The General Assembly must have been aware of these practical difficulties, and since the object of statutory construction is to ascertain the intention of the legislature, (*Barth vs. State ex rel.* 107 O. S. 154; *Cochrel vs. Robinson*, 113 O. S. 526), it is my opinion that if a person who is discharged from a hospital makes an affidavit of indigency and if at the end of ninety days his account remains unpaid, the registrar may, if all the other conditions of the law are complied with, reimburse the hospital for such claim. Additional protection against the prevention of fraudulent claims is provided in Section 6308-11, General Code, which reads as follows:

“The registrar of motor vehicles shall examine and audit each claim presented to him under the provisions of this act. From the facts and information contained in the claim, the monthly reports of the claimant hospital, the supporting certificates and affidavits, *and such other evidence as he may require*, the registrar of motor vehicles shall ascertain and determine, as to each claim, the following facts:

1. Whether or not the claim is predicated upon care given to a person suffering from a motor vehicle injury as defined in this act.
2. *Whether or not such person is able to pay the hospital charges for which the claim is made, within the meaning of this act.*” (Italics the writer’s)

Under paragraph (2) of the above section it is incumbent upon the Registrar to ascertain whether or not such person “is able to pay the hospital charges for which claim is made” and such finding must be made before the claim is paid by him. Under the power of the Registrar to demand “other evidence as he may require” it may be well within his sound discretion to have the hospital obtain an additional affidavit of indigency from the indigent patient at the expiration of ninety days after the termination of hospital care, but not to require such additional affidavit if it is impossible to obtain such because of the whereabouts of the discharged patient being unknown.

Specifically answering your inquiry it is my opinion that the affidavit of indigency required by virtue of Section 6308-10, General Code, may be made prior to ninety days after the termination of the hospital care.

Respectfully,
 JOHN W. BRICKER,
 Attorney General.