

1027

WELFARE, DEPARTMENT OF—POOR RELIEF, LOCAL OBLIGATION AND AUTHORITY NOT RESTRICTED BY §5105.07, RC, H. B. 592, 101st GENERAL ASSEMBLY—LOCAL AUTHORITY NOT RESTRICTED IN SUPPLEMENTING ASSISTANCE FROM DIVISION OF AID FOR THE AGED.

SYLLABUS:

Section 5105.07, Revised Code, as amended by House Bill No. 592, 101st General Assembly, imposes no statutory restrictions upon the obligation and authority of local relief officials to furnish hospitalization or medical care as poor relief to qualified recipients, or to supplement any such assistance which such persons may receive from the state division of aid for the aged.

Columbus, Ohio, September 17, 1957

Hon. Margaret A. Ireland, Director,
Department of Public Welfare
Columbus, Ohio

Dear Madam:

I have before me your request for my opinion which reads in part as follows:

“* * * As a result of budgetary limitations it has been necessary for the Department of Public Welfare to limit the amount of medical assistance that can be paid to Aid for Aged recipients under the provisions of Section 5105.07. This limitation will result in certain need for medical care and hospital care being unmet by the State Department of Public Welfare and the question has arisen as to whether or not the county or local relief areas can legally supplement the assistance given by the State, and whether or not there is in fact a duty upon the county relief authorities to furnish such hospital care in cases where the State does not have sufficient funds to meet the need.

“* * * A number of the Prosecuting Attorneys throughout the State have advised the county welfare directors that the amendment of Section 5105.07 relieves the county of all responsibility relative to the health care of the needy aged in their community and we are, therefore, requesting your opinion specifically to the following questions:

(1) Can the county or local relief areas supplement the medical assistance provided by the state where such state aid is insufficient to meet the actual need of the recipient?

(2) Is there an obligation upon the county or local relief authority to furnish the aged needy persons within their district with medical care in the event that the amount paid by the state for medical care is insufficient to meet the actual need?”

Prior to the enactment of House Bill No. 592 by the 101st General Assembly, Section 5105.07, Revised Code, read in pertinent part:

“* * * In cases of extraordinary need * * * an additional payment of not to exceed two hundred dollars in any calendar year may be made * * * for medical, dental, optometrical, or hospital care. * * *”

House Bill No. 592, *supra*, amended Section 5105.07, Revised Code, to remove the two hundred dollar *per annum* limitation, this section, as amended, reading in pertinent part:

“* * * Aid shall not exceed sixty-five dollars a month. In cases of extraordinary need and in so far as not to conflict with the basis of need established under federal law, an additional payment may be made to the recipient or, at the option of the division, to other persons or agencies in accordance with schedules of payment for medical, surgical, dental, optometrical, hospital, or necessary nursing and convalescent care, and medical supplies and drugs, required because of illness or disability of a recipient of aid under this section and within the rules and regulations of the division. Such schedules of payment shall be adopted for each county by the division * * *.”

Clearly, this amendment was enacted to liberalize and increase the benefits available to persons who qualify for assistance under the aid for aged statutes, not in any way to restrict or extinguish any statutory provision for additional assistance which such persons had been receiving or were entitled to receive under the provisions of Sections 5113.01, *et seq.*, Revised Code, under which a system of poor relief is administered by

local relief authorities. In this connection, note the following provisions in Section 5113.03, Revised Code:

“Poor relief shall be given on a budgetary basis and shall be sufficient to maintain health and decency, taking into account the requirements and the income and resources of the recipient. The receipt of other forms of public assistance shall not prevent the receipt of poor relief if additional need exists.”

Under the two hundred dollar limitation, it had been necessary in certain cases, for county poor relief agencies to supplement the aid for aged payments when the cost of hospitalization exceeded the statutory ceiling. In the situation you describe, it appears that although the statutory limitation has been removed, budgetary restrictions have made it impossible for the division of aid for the aged to bear the entire cost of hospitalization for qualified recipients. When pay for hospital and medical care is curtailed by lack of funds by operation of law, *i.e.*, by reason of the amounts of legislative appropriations, it is apparent that the “additional need” therefor, mentioned in Section 5113.03, *supra*, is increased rather than diminished. If such “additional need” actually exists, I do not consider that amended Section 5105.07, Revised Code, implies a prohibition of supplemental payment of poor relief, especially in the light of Section 5105.08, Revised Code, which states:

“Sections 5105.01 to 5105.29, inclusive, of the Revised Code shall be liberally construed. Such sections shall not repeal any other act or part of an act providing for the support of the poor except in so far as it is plainly inconsistent with sections 5105.01 to 5105.29, inclusive, of the Revised Code, *and such sections shall be construed as an additional method of supporting and providing for the aged poor.*”
(Emphasis added.)

It is plain, therefore, that Section 5105.07, Revised Code should not be construed to limit relief to which a recipient may be entitled under Chapter 5113., Revised Code.

That poor relief includes medical care and hospitalization is clear from the language of the statute which defines it. Section 5113.01, Revised Code, reads:

“Poor relief means food, clothing, shelter, the services of a physician or surgeon, dental care, hospitalization, and other commodities and services *necessary for the maintenance of health and decency.* * * *
(Emphasis added.)

One of my predecessors, in Opinion No. 2543, Opinions of the Attorney General for 1947, page 632, pointed out that it is the duty of a local relief authority to furnish hospital care as a part of poor relief. It is thus to be seen that under Section 5105.07 and 5113.01, *et seq.*, Revised Code, the obligation to furnish hospitalization and medical care to the aged from within a county relief area is the joint obligation of both the state division of aid for the aged and the local relief authorities. The obligation of each is entire, and was so created by the General Assembly to provide adequate relief for those who need it in the event that one of the designated agencies is unable to provide it.

It is, therefore, my opinion and you are advised that Section 5105.07, Revised Code, as amended by House Bill No. 592, 101st General Assembly, imposes no statutory restrictions upon the obligations and authority of local relief officials to furnish hospitalization or medical care as poor relief to qualified recipients, or to supplement any such assistance which such persons may receive from the state division of aid for the aged.

Respectfully,
WILLIAM SAXBE
Attorney General