

1180

1. CLAIMS—SUPPORT OF INMATES OF STATE INSTITUTIONS—DUE AND PAYABLE TO STATE MONTHLY FROM PERSONS LIABLE FOR THEIR SUPPORT—COME INTO POSSESSION OF STATE AGENT OR OFFICER AT THAT TIME—IF NOT COLLECTED WITHIN THIRTY DAYS, CLAIM MUST BE CERTIFIED TO AUDITOR OF STATE—SECTION 1815-9 G. C.
2. CLAIMS DUE STATE UNDER SECTION 1359-7 G. C. COME INTO POSSESSION OF STATE AGENT OR OFFICER WHEN HE ACQUIRES KNOWLEDGE OF CLAIM—IF NOT COLLECTED WITHIN THIRTY DAYS, CLAIM MUST BE CERTIFIED TO AUDITOR OF STATE.
3. CLAIMS DUE STATE FOR AUTOMOBILE LICENSE PLATES COME INTO POSSESSION OF STATE OFFICER OR AGENT UPON DELIVERY OF LICENSE PLATES TO VENDEE—IF NOT COLLECTED WITHIN THIRTY DAYS, CLAIM MUST BE CERTIFIED TO AUDITOR OF STATE.

SYLLABUS:

1. Claims which become due and payable to the state monthly from persons liable for the support of inmates of state institutions under Section 1815-9, General Code, come into the possession of a state agent or officer at that time. If not collected within thirty days after this, the claim must be certified to the Auditor of State.

2. Claims due the state which arise by authority of Section 1359-7, General Code, come into the possession of a state agent or officer when he acquires knowledge of the claim. If not collected within thirty days, the claim must be certified to the Auditor of State.

3. Claims due the state for automobile license plates come into possession of a state officer or agent upon delivery of the license plates to the vendee. If not collected within thirty days, the claim must be certified to the Auditor of State.

Columbus, Ohio, November 1, 1949

Hon. J. H. Lamneck, Director of Public Welfare
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"This acknowledges receipt of your letter of June 24th, relative to certifying a delinquent claim to the Auditor of State within thirty days after it comes into the possession of a state official.

"As you are aware, nearly all of the claims coming through this Department in favor of the State may be placed in the following categories:

"(1) Claims against a patient or his responsible relatives for maintaining a patient in a state institution.

"(2) Claims for recovery of aid paid under the law providing aid for the aged.

"(3) Sales made by Ohio Penal Industries to the state and political subdivisions.

"(4) Sale of articles made by the blind in the Division of Social Administration.

"(5) Miscellaneous institution sales.

"Under Sections 1815-1 to 1815-15 of the General Code, the Department of Public Welfare is given wide discretion in making collections from patients and responsible relatives for the support of patients in state institutions. It has authority to accept part-payment, or to cancel orders to pay which were previously made, or to modify the same if conditions so warrant. It is the practice of the Department to send monthly bills to responsible relatives and the guardians of patients for the support of patients in state institutions unless the Department has entered into an agreement with the parties responsible, providing other terms. Often times, claims are held up until the settlement of an estate.

"Do I understand your letter of June 24th to mean that the amount accruing within a thirty-day period on all such claims and remaining unpaid is to be certified to the Auditor every thirty days?

"Under the provisions of Section 1359-7, upon the death of a person who has received aid under the law providing aid for the aged, the total amount of aid paid to said person or to his spouse, or either or both of them, becomes a preferred claim against the estate of such deceased person. It has been the practice of the Department to file such claims with the fiduciary of the estate. Sometimes, the appointment of a fiduciary is delayed for a considerable length of time.

"Do I understand that you want these claims certified to The Auditor within thirty days after death occurs?

"In the Ohio Penal Industries Division, the Department of Public Welfare makes the automobile license plates and also fur-

nishes electrical power and heat to other state departments located in Columbus. Delivery of 1950 automobile license plates is now being made to the Bureau of Motor Vehicles. It is the practice of that Bureau not to pay for these plates until the early part of the year in which they are used. Is this procedure to be changed under your recent order?

“All of the foregoing raises the question, when does a claim to the state ‘come into his possession?’

“Inasmuch as this Department desires to comply with a reasonable interpretation of the law, an opinion at the earliest possible date on the questions raised herein will be appreciated.”

Section 20, General Code, states as follows :

“When an officer or agent of the state comes into possession of a claim due and payable to the state, he shall demand payment thereof, and on payment have the amount duly certified into the state treasury. If he fails to collect such claim within thirty days after it comes into his possession, he shall certify it to the auditor of state, specifying the transaction out of which it arose, the amount due, the date of maturity, and the time when payment was demanded. The auditor of state shall not issue his warrant on the treasurer of state for the salary of any such officer or agent of the state until the provisions of this section are complied with.”

At the outset we are confronted with the problem that in many cases there is no such tangible evidence of the claim so that there can be physical possession by a state agent. The question of when a claim “comes into the possession” of a state agent or officer will depend upon the individual situation. It will be further noted that a claim must be due and payable before Section 20, General Code, is applicable. I will confine my opinion to the specific illustrations given in your request due to the fact that different situations might vary the answer.

As to the claims due the state in regard to patients of state institutions, I will assume that you send monthly bills to the responsible persons. From this administrative practice it can be said that the claim becomes due and payable monthly and that it comes into the possession of a state agent at this time. Therefore, if the claim is not paid within thirty days of the time it became due and payable, the appropriate agent or officer of the state shall certify it to the auditor of the state. It must be remembered that the above is true in the situations in which the bills are to be collected

on a monthly basis. It is possible that some claims would not become due and payable monthly and thus would not be affected.

Section 20, General Code, is a mandatory statute. This is indicated by the use of the word "shall" and further by the fact that a penalty is inflicted if the responsible parties do not certify the claim within the required time. The fact that the Department of Public Welfare may modify orders to pay is of no significance here. Section 20, General Code, makes no exceptions. If a claim in the possession of a state agent is due and payable and is not paid within thirty days, it must be certified to the auditor of state.

Your second question involves the claim which arises by authority of Section 1359-7, General Code, upon the death of a person who has received aid under the law providing aid for the aged. Section 1359-7, General Code, provides that a preferred claim arises against the decedent's estate immediately upon the death of such a person. It might be argued that a state agent comes into possession of the claim at this time. However, it is a well established rule of construction that statutes should be interpreted so as to act in a reasonable manner. See 37 O. Jur., Section 352 at page 643. Even though a claim is due and payable, the legislature surely intended that a state agent should have knowledge of the claim before it was deemed to be in his possession. It must be assumed that the legislature was fully cognizant of the administrative difficulty, if not impossibility, of collecting such a claim within thirty days of the death of the person. It would seem from this that this due and payable claim does not come into the possession of the appropriate state agent or officer until he has knowledge of it. If the claim is not paid within thirty days after knowledge of it, it must be certified to the auditor of state.

I will assume that the sale of license plates for automobiles is consummated upon delivery of the plates to the vendee. In this situation the claims must be certified to the state auditor within thirty days of the delivery, if they are not paid before this time, as the claims become due and payable upon delivery.

In conclusion, therefore, it is my opinion that claims in regard to patients of state institutions which become due and payable monthly come into possession of a state agent or officer at that time and must be paid within thirty days. If not paid by that time, they must be certified to the auditor of state. As to claims due the state on the death of a person who has received money under the law providing aid for the aged and which

arise by authority of Section 1359-7, General Code, I believe that these claims come into the possession of a state agent or officer when he acquires knowledge of the claim. It is also my opinion that claims due the state for automobile license plates come into the possession of a state officer or agent upon delivery of the license plates to the vendee.

Respectfully,

HERBERT S. DUFFY,
Attorney General.