

4. While the encumbrance estimate purports to show release of funds for this project by the Controlling Board on April 13, and May 19, 1931, no copies of the certificates of the Controlling Board, signed by the president of the Controlling Board, are submitted in the files.

However, even though these omissions and errors should be corrected, no valid contract can be entered into with J. A. Hickey, Inc. I find that the certificate of the Auditor of State as to the filing of plans and specifications with his department, shows that said plans were filed in said department on May 12, 1931. The proof of publication indicates that the advertisement for bids was published on May 1, 1931, and the notice to bidders specifies that bids were to be received on May 11, 1931. Hence, the specifications were not filed with the State Auditor until the day after bids were received.

Section 2317, General Code, clearly shows that all plans, specifications and information to bidders must be filed with the Auditor before advertisement for proposals is begun. See also Opinion 3318, rendered June 12, 1931, a copy of which is enclosed herein. Consequently, it is impossible for you to enter into a contract with J. A. Hickey, Inc., as the failure to file plans, specifications, etc., before advertisement prevents acceptance of any of the bids.

The proper procedure at this time is to readvertise for bids, under authority of section 2320, General Code.

In view of the foregoing, I am forced to disapprove this contract, and am returning to you all the papers submitted in connection therewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3325.

PHYSICIAN—UNDER CONTRACT WITH TOWNSHIP TO FURNISH MEDICAL RELIEF TO POOR THEREIN FOR FIXED COMPENSATION—REQUESTED BY FOREIGN TOWNSHIP TO TREAT INDIGENT PERSON WHOSE LEGAL SETTLEMENT IN SUCH PHYSICIAN'S TOWNSHIP—RIGHT TO COMPENSATION FROM FOREIGN TOWNSHIP—SUCH FOREIGN TOWNSHIP REIMBURSED BY INDIGENT'S TOWNSHIP.

SYLLABUS:

Medical services requested by the trustees of a township for an indigent person whose legal settlement is in another township, should be paid by the township requesting such medical services and charged to the township of legal settlement.

COLUMBUS, OHIO, June 15, 1931.

HON. C. LUTHER SWAIM, *Prosecuting Attorney, Wilmington, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent request for my opinion, which reads:

“The following inquiry is made for an opinion of the Attorney General relating to medical treatment of township indigent poor.

One of the townships of this county has a contract with a physician to take care of the indigent sick under Sec. G. C. 3490. A person moved from this township into an adjoining township, and some miles further from the center of the first township. While living in the second town-

ship, he became ill and the trustees of the second township called upon the physician who was under the contract with the first township to treat this person. They intended to pay the physician from their own township funds, but upon investigating found that he was still a legal charge upon the first township, and notified the first township, within the statutory time, of the services rendered.

The question, therefore, arises: Does the second township pay the bill to the physician and the first township reimburse the second township or is this to be regarded as part of the contract of the physician?

I desire to call your attention to the injustice of the situation if this is held to be a part of the contract of the physician, as he contracted to treat persons in the first township. If it would be regarded as part of his duties to treat persons who are still legal charges upon the first township, he might be called into other counties to take care of the persons who are still the legal charges upon the first township, and at no time was this contemplated under his contract.

The ruling of the Attorney General is requested upon this particular question, in view of the fact that this situation has arisen in other counties, and it is desired to get a definite ruling from the office of the Attorney General."

From a subsequent communication with your office, it appears that the person in question was not treated for a contagious disease. Section 3480-1, General Code, enacted in 1929 and found in 113 O. L. 271, reads as follows:

"When a person requiring medical services or the services of a hospital, in cases other than contagious, has a legal settlement in a municipality or township within the same county but other than that in which the service is rendered, and such person is unable to pay the expenses of such service, the municipality or township rendering such service shall notify, in writing, the proper officials of the municipality or township of legal settlement of such person that such services are being rendered. Such written notice shall be sent within three days if the fact of non-residence is disclosed upon the beginning of such service or admission to such hospital, or within three days after discovery of such fact if the same be not disclosed as above. *Thereupon the municipality or township of legal settlement shall be liable for such services at the established rate of the municipality or township rendering such service and shall pay for the same within thirty days after date of the sworn statement covering such expenses, which sworn statement shall be sent to the proper officials of the municipality or township of legal settlement within twenty days after the discharge of such person.* If the notice of such service be not sent to the municipality or township of legal settlement within three days after the disclosure by such person or the discovery of such non-residence, such municipality or township shall be liable only after the receipt of such notice. Nothing herein contained shall prevent the removal of such person, or the assumption of care of such person, by the municipality or township of legal settlement, at its expense, but such removal or assumption shall not relieve such municipality or township from liability for the expenses theretofore incurred by the municipality or township rendering such service. Any such person who does not, upon discharge, pay for such services at the established rate therefor shall, for the purposes of this act, be deemed indigent insofar as the municipality or township ren-

dering such service is concerned. The municipality or township of legal settlement is hereby subrogated to all the rights of the municipality or township rendering such service to such person." (*Italics the writer's.*)

From a reading of this section, it would appear that in the instant case the services of the doctor should be paid by the township at whose request the medical services were rendered and the same charged against the township of legal settlement.

Section 3490, to which you refer, reads as follows:

"The trustees of a township, or the proper officers of a municipal corporation in any county, may contract with one or more competent physicians to furnish medical relief and medicines necessary for the persons who come under their charge under the poor laws, but no contract shall extend beyond one year. Such physician shall report quarterly to the clerk of the township or municipality, on blanks furnished him for that purpose, the names of all persons to whom he has furnished medical relief or medicines, the number of visits made in attending such person, the character of the disease, and such other information as may be required by such trustees or officers."

Section 3492, enacted in 1919 and found in 108 O. L., Pt. 1, reads as follows:

"When the township trustees or the officers of a municipal corporation enter into such contract, such township or municipality shall not be liable for any relief thereafter otherwise furnished such person, so long as such contract remains in force."

From a reading of this latter section, it would seem that in the instant case the township trustees of the township of legal settlement might perhaps be prohibited from paying such bill for medical services rendered at the request of the second township, since the above section negatives payment for medical services by a township which has a contract for such services in accordance with the authority conferred by Section 3490, General Code.

According to the familiar rule of statutory construction that as between two conflicting statutes the later in time shall prevail, I believe that the procedure set forth in Section 3480-1, the later enactment, prevails over the possible prohibition found in Section 3492.

The mere coincidence that the township authorized to request medical services chanced to call the doctor under contract with the township to which the patient was a legal charge, does not, in my opinion, act as a bar to prevent the doctor from receiving compensation for his services rendered, at the request of the second township, from such township.

Upon compliance with the procedure set forth in Section 3480-1, when such services are compensated by the township requesting the same, the provisions of the statute concerning reimbursement of a township for medical services rendered persons chargeable to another township, apply.

In view of the foregoing, I am of the opinion that medical services requested by the trustees of a township for an indigent person whose legal settlement is in another township, should be paid by the township requesting such medical services and charged to the township of legal settlement.

Respectfully,
 GILBERT BETTMAN,
Attorney General.