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1. HOSPITALIZATION—D U T Y LOCAL RELIEF AUTHORITIES TO FURNISH HOSPITAL CARE TO PERSONS IN NEED, ENTITLED TO POOR RELIEF UNDER SECTION 339¹ ET SEQ., G. C.—PERIOD NOT TO EXCEED THREE MONTHS IN ANY ONE CALENDAR YEAR.
2. TOWNSHIP TRUSTEES—CONDITIONS U N D E R WHICH THEY ARE REQUIRED TO FURNISH HOSPITALIZATION —WHEN OBLIGATED TO FURNISH HOSPITALIZATION WITHOUT AID FROM THE STATE—SECTION 3476 ET SEQ., G. C.
3. WHERE TOWNSHIP TRUSTEES FURNISH HOSPITAL CARE, RESPONSIBILITY OF LOCAL RELIEF AUTHORITY TO PROVIDE MEDICAL CARE.

SYLLABUS:

1. It is the duty of local relief authorities to furnish hospital care to persons in need thereof, who are entitled to poor relief under the requirements of Section 3391 et seq., General Code, for a period not to exceed three months in any one calendar year.

2. In all cases where, under the terms of Section 3476 et seq., General Code, township trustees were formerly obligated to furnish hospitalization, it is the duty of the local relief area to furnish such hospitalization for a period not to exceed three months in any one calendar year, thereafter, and if hospitalization is required for a longer period of time, the duty of furnishing hospitalization rests upon the township trustees, who are obligated to furnish the same without aid therefor from the state.

3. In those cases for which the township trustees furnish hospital care, it is the responsibility of the local relief authority to provide medical care.

Columbus, Ohio, December 30, 1947

Hon. Charles L. Sherwood, Director, Department of Public Welfare
Columbus, Ohio

Dear Sir:

I am in receipt of your communication, which reads as follows:

“At the last session of the General Assembly Section 3391 of the General Code was amended to include hospitalization under the definition of poor relief. The following sentence appears in Section 1 of the said bill: ‘Nothing herein defined as hospital care shall apply to the administration of hospital care of indigents by township trustees.’

In order to plan for the administration of the poor relief program under the amended law, it is necessary that we have your opinion on the following questions:

1. To what extent will the county *relief* authority be responsible for hospital care and what will be the responsibility of township trustees, in view of the language just quoted?

2. In those cases for which the township trustees furnish hospital care is it the responsibility of the local relief authority to provide medical care for the said cases?”

Your first question involves an interpretation of Amended Senate Bill No. 178, 97th General Assembly, 122 O. L. 178, which amended Section 3391 of the General Code. This bill was effective September 30,

1947. The pertinent parts of Section 339I, General Code, with amendments emphasized, read:

“For the purpose of this act:

‘Poor relief’ means food, clothing, shelter, and other commodities and services necessary for subsistence, or the means of securing such commodities and services, furnished at public expense to persons in their homes, * * * in the case of homeless persons, in lodging houses or other suitable quarters *or in hospitals*. Payments for shelter shall not exceed the average rental for comparable types of shelter in the area in which such shelter is provided. Average rentals shall be determined by local relief authorities subject to the approval of the state director. Poor relief may take the form of ‘work relief,’ ‘direct relief’ * * *, ‘medical care’ or ‘*hospital care*’ as herein defined. * * *

The term ‘work relief’ means poor relief given in exchange for labor or services.

The term ‘direct relief’ means poor relief without the performance of work therefor.

‘Medical care’ means medicines and the services, wherever rendered, of a physician or surgeon or the emergency services of a dentist, furnished at public expense.

‘Hospital care’ means the customary accommodations, facilities, medicines and supplies furnished by a hospital at public expense, for a period not to exceed three months in any calendar year for one individual.

Nothing herein defined as hospital care shall apply to the administration of hospital care of indigents by township trustees
* * *”
(Emphasis added.)

The obvious intention of the General Assembly in the enactment of Amended Senate Bill No. 178, was to bring “hospital care” within the definition of “poor relief.” However, the provision of said act to which my attention is directed by you in your request raises some question as to the extent to which hospital care is to be considered as poor relief. The chronological history of the enactment of said bill appears to be helpful in the resolution of said question. The only change made in the then existing Section 339I, General Code, by said bill as originally introduced in the Senate on February 20, 1947, was to add the word “hospitalization” in the first sentence of Section 339I, General Code. The bill as introduced read: “‘Poor relief’ means food, clothing, shelter, *hospitalization*, and other commodities * * *.” The Judiciary Committee of the Senate, to which said bill was referred, in reporting the same out of said Committee

on June 5, 1947, recommended that the word "hospitalization" be struck from the bill and all of the provisions of said bill, as above set forth, added, except for the sentence relative to the responsibility of the township trustees. This recommendation included the insertion of the words "or in hospitals" after the word "quarters," the words "or hospital care" after the words "medical care," and the definition of "hospital care" as found in the final act. It is to be noted that the provision relative to the responsibility of township trustees was not included in the recommended amendments of the Senate Judiciary Committee. It is also to be noted that the three month limitation per person per year, which now appears in the act, was placed therein by said committee. The bill, with these recommendations of the Senate Judiciary Committee, passed the Senate June 9, 1947. The proposed bill was then sent to the House of Representatives, where it was referred to the Public Welfare Committee. On June 12, 1947, said Committee reported the bill to the House with the recommendation that it be amended to include the provision for the responsibility of township trustees. The bill then passed the House of Representatives and the Senate concurred in the amendment made by the Public Welfare Committee of the House. The bill was later passed over the governor's veto, to become effective September 30, 1947.

It is important to note that the Public Welfare Committee of the House of Representatives proposed the provision for the responsibility of township trustees. This Committee was aware of the problems attendant upon the care of the poor, and wanted it stated clearly that if additional hospitalization was needed by recipients of "poor relief" after the allowed three-month period, responsibility therefor should definitely be fixed by law.

It is also to be noted that the original intent of the proposed bill was to include "hospitalization" in "poor relief." The recommendations of the Senate Judiciary Committee were simply for the purpose of clarifying the extent of the aid to be given. The intent of this committee certainly was to make this provision more definite and certain.

Section 3476 et seq., General Code, fixes the responsibility of township trustees in the care of the poor. The pertinent part of Section 3476, General Code, provides:

"Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city

therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. * * *

Section 3480, General Code, states the extent of the responsibility of township trustees for providing hospitalization :

“When a person in a township or municipal corporation requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees or officer, in writing, that he is attending such person, and thereupon the township or municipal corporation shall be liable for relief and services thereafter rendered such person. If such services consist of hospital care rendered such person, such hospital shall be paid such amount as may be agreed upon by such trustees or proper officers and such hospital, or if no such agreement is made, then such hospital shall be paid the established ward rate for such care in such hospital. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered.”

Your attention is directed to the pertinent portion of Section 339I-2, General Code, which provides :

“6. Except as modified by the provisions of this act, Section 3476 and other sections of the General Code of like purport shall remain in full force and effect, and nothing in this act shall be construed as altering, amending, or repealing the provisions of section 3476 of the General Code, relative to the obligation of the county to provide or grant relief to those persons who do not have the necessary residence requirements and to those who are permanently disabled or have become paupers to such other persons whose peculiar condition is such that they cannot be satisfactorily cared for except at the county infirmary or under county control.” (Emphasis added.)

It is to be noted that Section 3476 et seq., General Code, in the provisions pertinent hereto, was in existence at the time of the enactment

of the "poor relief" law, Sections 3391 to 3391-12, General Code, in its original form. The emphasized portion of the above section clearly states that the provisions of Section 3391 et seq., General Code, are to have precedence over Section 3476 et seq., General Code. By virtue of the passage of Section 3391 et seq., General Code, the administration of "poor relief" passed to local relief authorities. Express reference in said act to Section 3476, General Code, requires the latter section to be read in *pari materia* therewith. In doing so, however, consideration must be given to the fact that said act constitutes the last expression of the General Assembly on the subject of "poor relief," and consequently any doubts arising by reason of conflicting provisions between Section 3476 et seq., General Code, and the "poor relief" act, must be resolved according to the terms of the latter. The Supreme Court of Ohio, in the case of *Mansfield General Hospital Corporation v. Swank, et al., Trustees of Jefferson Township, Richland County*, 141 O. S. 545, sustained the Court of Appeals in its conclusion that section 3391 et seq., General Code, was to be read in *pari materia* with Section 3476 et seq., General Code.

It is to be presumed that the General Assembly, when it enacted Amended Senate Bill 178, knew of the existence of Section 3476 et seq., General Code. Therefore, if it had intended to shift, in its entirety, the burden placed on counties and townships by said section, to local relief areas, it could very well have done so by not inserting in Section 3391 the language providing for the three-month limitation and omitting from said section the language relative to the furnishing of hospital care by township trustees, to which you direct my attention in your letter. In other words, that body, after having defined hospital care as the customary hospital accommodations "for a period not to exceed three months in any calendar year," added the language dealing with the obligations of township trustees, thereby indicating that the responsibility not placed by it on the local relief authorities should continue to be borne by the townships without aid therefor from the state.

The second question presented in your request for my opinion was not directly dealt with in Amended Senate Bill 178, 97th General Assembly. Section 3391, General Code, as it existed prior to the enactment of Amended Senate Bill 178, provided that "medical care" was to be included in "poor relief." Your attention is directed to the definition of "medical care" as contained in Section 3391, General Code, *supra*. The phrase "wherever rendered" would include "medical care" given in hospitals.

Your attention is directed to Opinions of the Attorney General, 1940, Vol. II, p. 781, No. 2648. The third and fourth branches of the syllabus of this opinion of my predecessor state:

“3. When a hospital furnishes medicines, dressings, laboratory examinations, x-ray examinations or radium for the treatment of an indigent patient of such hospital, under the advice of a physician employed by such hospital, to the extent that the cost to the patient therefor is not regularly included in the general charge for hospital care, but is made the subject of a special charge to the patient, such cost may be paid by the local poor relief authority from poor relief funds as medical care.

4. When a hospital furnishes medicines, dressings, laboratory examinations, x-ray examinations or treatments, radium or deep therapy treatments under the supervision of and as the agent of a physician who has the care of an indigent patient, who is receiving hospital care at such hospital, the expense of furnishing such items may be paid from poor relief funds by the local relief authorities under authority of Sections 3391, et seq., General Code.”

I cite this conclusion of my predecessor with approval. There has been no change in the provisions for “medical care” under the poor relief law since this opinion was rendered.

In view of the foregoing, you are advised that in my opinion:

1. It is the duty of local relief authorities to furnish hospital care to persons in need thereof, who are entitled to poor relief under the requirements of Section 3391, et seq., General Code, for a period not to exceed three months in any one calendar year.

2. In all cases where, under the terms of Section 3476 et seq., General Code, township trustees were formerly obligated to furnish hospitalization, it is the duty of the local relief area to furnish such hospitalization for a period not to exceed three months in any one calendar year, thereafter and if hospitalization is required for a longer period of time, the duty of furnishing hospitalization rests upon the township trustees, who are obligated to furnish care, it is the responsibility of the local relief authority to provide medical care.

Respectfully,

HUGH S. JENKINS,
Attorney General.