

ELIEN OSYNA Y BOARD - Authority to fix charges for six weeks' treatment of indigent sane persons;
INDIGENT SANE PERSONS - To be given six weeks' treatment in state hospitals;
COUNTY - Liable for six week's treatment of indigent sane under Laws Mo. 1935, p. 389.

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September 30, 1935



Honorable W. Ed Jameson, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Sir:

We have your request of September 17, 1935 for an opinion, which request is as follows:

"I wish you would refer to Section 8663 A on page 389, of the Laws of Missouri 1935, and construe that section for me. The legislature in passing this law made no provision for the payment of patients entering the hospital under this law providing temporary diagnosis, care and treatment for indigent patients.

"I am sure the law was meant to permit many people who are likely to become a charge, to have the benefit of these institutions in a preliminary way without having been adjudged by the county court as insane. A vast number of these people would respond to the correctional methods of the experts in mental hygiene at these institutions and would be dismissed before the six weeks expired, without the stigma of having been adjudged insane.

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Most of these voluntary entries would be potential patients, but everyone whose health could be restored, would save the county and state the cost of their future care. The state is now paying \$12.00 per month and the county \$6.00 per month for the care of this class of patients.

"Could their maintenance be charged back to the counties and the state in this proportion, or could the institutions accept sponsorship and payment from the relatives or friends."

You request a construction of Laws No. 1935, p. 389, which, for convenience, will be set out in full:

"Diagnosis, treatment and temporary care, for a period not to exceed six weeks, may be given at any State Hospital, at the discretion of the superintendent, to any indigent resident of this State who is not insane but who is suffering from a nervous or mental illness or other affliction for the treatment of which the hospital has especial facilities and who, in the absence of such treatment or care, is likely to become a public charge. The County or City Health Official shall send his diagnosis with each patient and a request for such treatment as provided in the above act.

"Such diagnosis, treatment or temporary care shall be given in ac-

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cordance with such rules and regulations as the board of managers may prescribe."

You will note that the 1935 law uses the term "indigent resident of this State who is not insane." The term "indigent" has long been construed to mean "one without sufficient estate to pay for his maintenance; one who has no property from which to support himself." *Depue vs. District of Columbia*, 45 App. 59; *Trustees of State Hospital for Insane at Danville vs. Lycoming Co.*, 86 A. 879, 239 Pa. 402. The term "indigent insane" is defined in Section 8664 R. S. Mo. 1929 to be one without property subject to execution.

If a person is indigent within the meaning of the above law, then it would appear that he is a proper subject for support by the county under Section 12950, R. S. Mo. 1929, which provides as follows:

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

Such persons who are entitled to county support, according to Section 12951, R. S. Mo. 1929, are those who are,

"Aged, infirm, lame, blind or sick persons, who are unable to support themselves, and when there are no other persons required by law and able to maintain them,"

From the 1935 law, it appears that indigent or poor persons, not insane, but who are suffering

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from a nervous or mental illness, or other affliction, may receive a diagnosis, treatment and temporary care at a state hospital under such rules and regulations as the hospital may prescribe.

The question arises: If a person is indigent within the meaning of the 1935 law, but is not insane, does the liability of the county for the care of its poor cease merely because such person is suffering from a nervous or mental illness or other affliction for the treatment of which the hospital has especial facilities? We think not. The liability of the county to relieve, maintain and support its poor continues even though the person is entitled to a diagnosis, treatment and temporary care at a state hospital for a period not to exceed six weeks.

The next question arises as to whether or not the appropriation of 1935 (Laws Mo. 1935, p. 177) wherein was appropriated for the use of state hospitals, twelve dollars per month for the support and maintenance of each insane pauper patient in such hospital, is broad enough to cover expenses incurred in the six weeks' diagnosis, treatment and care of persons who are not insane. We are of the opinion that the appropriation act for the support and maintenance of insane paupers cannot be used for the purposes of the act under consideration providing six weeks' treatment for persons who are not insane.

The 1935 law provides that,

"Such diagnosis, treatment or temporary care shall be given in accordance with such rules and regulations as the board of managers may prescribe."

This means that the eleemosynary board may, by rule, require the payment of a reasonable

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and necessary charge for the diagnosis, treatment or temporary care of such persons entitled to receive the six weeks' treatment. However, since the support of poor persons by counties under the provisions of Section 12954, R. S. Mo. 1929 is a matter within the discretion of the county court, such rules could not operate as a mandate on the county court to pay such charges unless the county court agreed to it. If a person is entitled to the six weeks' treatment, it is immaterial whether the county, his friends or relatives, pay the charges fixed by the eleemosynary board.

CONCLUSION.

In conclusion, this office is of the opinion that only indigent sane may be received for diagnosis, care and treatment in one of the state hospitals, and the eleemosynary board may, by rules and regulations, require the payment of certain charges by the county as a condition precedent to the admission of such persons from a county for the six weeks' treatment. If the county court refuses to pay such charges, then the superintendent of the hospital may, in his discretion, as provided in the 1935 law, refuse to receive such persons for the six weeks' treatment.

This office is of the further opinion that such charges as may be made to the counties for such six weeks' treatment must be made under and by virtue of the counties' duty to support its poor, and not under or by virtue of any law or appropriation relating to the care of indigent insane.

Respectfully submitted,

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APPROVED:

JOHN W. HOFFMAN, Jr.
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