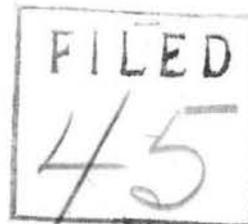


COUNTY BUDGET ACT: Insane pauper patients not sufficiently harmful to be sent to State Hospital may be kept at County Farm and expense therefor paid out of Class 5.

X

2-29
February 28, 1936.



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

Dear Sir:

This department is in receipt of your letter of February 24 wherein you make the following inquiry:

"Down in Stoddard County they have about thirty patients they want to send to State Hospital #4 at Farmington. A lot of them are of low mentality and are perfectly harmless and can be taken care of just as well in their County Farm.

"They have asked me if any Class A funds under the Budget Law can be used for that purpose. My understanding is that the care of the insane is a first charge upon the counties and must be paid before anything else can be paid, but if the law can be construed so that some of the money can be used to keep a certain class of patients in their own county, it would help relieve the terrible congestion that we have in these institutions."

You mention that they have asked if any Class A funds under the Budget Law can be used for that purpose. We presume this statement refers to Class 1 under Section 2 of the County Budget Law (Laws of Mo. 1933, p. 341), which is as follows:

"The county court shall set aside and apportion a sufficient sum to

care for insane pauper patients in state hospitals. Class 1 shall be the first obligation against the county and shall have priority of payment over all other classes."

In view of the terms used in Class 1, it is our opinion that the county court can only use such funds for insane pauper patients actually confined in state hospitals; hence, the county court cannot use funds from this class to maintain such patients at the county farm.

Class 5 of Section 2 of the County Budget Act (Laws of Mo. 1933, p.342) provides:

"The county court shall next set aside a fund for the contingent and emergency expense of the county, which shall in no case be more than one-fifth of the anticipated revenue. From this class the county court may pay contingent and incidental expenses and expense of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes."

CONCLUSION

In view of the fact that Class 5, supra, contains the clause "and expense of paupers not otherwise classified", it is the opinion of this department that the only funds which may be used by Stoddard County in maintaining the thirty patients which it proposes to send to the State Hospital at Farmington would be funds from Class 5. Of course, if the county is financially able

Feb. 28, 1936.

to provide for the first five classes, it could spend the balance for such purpose, as set forth in Class 6 of the Budget Act.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

OWN:AH