

ELIEMOSYNARY INSTITUTIONS: Method of payment to State
Hospitals for support of
patients committed as habitual
drunkards or drug addicts.

January 3, 1940

Hon. Sam Hess
Judge of Probate Court
Phelps County
Rolla, Missouri



Dear Judge Hess:

We are in receipt of your request for an opinion,
under date of November 10, 1939, which reads as follows:

"Proceeding under ARTICLE 19, Sections
508-516, R.S. 1929, with notice as in
Section 511, Estella Robinson, a female
single person, resident of Rolla, Phelps
County, Missouri, was adjudged to be a
drug addict, on the 30th day of October,
1939, and on the 7th day of November,
1939, a commitment was issued as pro-
vided in Section 512, placed in the hands
of the Sheriff and he took her to Farming-
ton on the morning of the 8th, the Judge
first having telephoned to see if they
could take her.

"The County Court happened to be in session,
so the Sheriff took with a check for pay-
ment in advance, but I told him not to
give it to them unless they refused to
take her otherwise. They refused and he
gave them the check.

"The question is: can a State Hospital, admitting that they have room, be compelled to receive a drug addict for treatment without payment in advance?

"Section 8631 provides for payment in advance for private patients, and Section 8636 provides payment in advance for County patients of a certain type; but Sections 508-516 do not seem to contemplate nor do they provide that payment should be in advance.

"The above question becomes of importance when the County Court is not in session at a time when the Probate Court commits a drug addict. It seems to me that the Hospital must take the patient and get their money as provided in Section 513."

Section 513 R. S. Missouri, 1929, providing for payment to the state hospital for the support of persons committed as habitual drunkards or drug addicts, reads as follows:

"Such hospital shall collect, from the county of such patient's residence, by warrant of the superintendent of the hospital drawn on the county court, the same expense for the support of such patient as is allowed by law for the support of insane patients; and all fees of the probate court and fees and mileage of the sheriff shall be the same as in like proceedings in the inquisition and care of insane patients, and shall also be paid out of the county treasury by order of the county court; but all such expenses, fees and mileage shall be a charge upon any estate of the patient

subject to appropriation as hereinabove provided, and for the payment of which by the curator into the county treasury, said probate may and shall, from time to time upon application of the county court, make order for the sale and transfer of title of such estate as in case of estates of insane persons under guardianship, and for payment into such county treasury."

Section 8631 R. S. Missouri, 1929, makes provision for payment to the state hospital for persons committed as pay patients, and reads as follows:

"Preparatory to the admission of such a patient, the superintendent shall be furnished with a request of the form seen in section 8632 under the hand of the person by whose direction he is sent, stating his age, and place of nativity, if known, his christian and surname, place of residence, occupation and degree of relationship, or other circumstances of connection between him and the person requesting his admission; and, second, a certificate of the form seen in section 8633, dated within two months, under oath, signed by two physicians, of the fact of his being insane. Each person signing such request or certificate shall annex to his name his profession or occupation, and the township, county and state of his residence, unless these appear on the face of the document. Before any private patient shall be received into the hospital, there shall be produced to the superintendent a receipt from the treasurer of the hospital, ac-

knowledging the payment to him of at least thirty days' charges in advance, and a sufficient bond to said treasurer, conditioned that the obligor or obligors will secure the payment of charges incurred in behalf and on account of said patient; said bond, with satisfactory securities, shall be of the form and contain the provisions as provided in section 8634. No part of said thirty days' payment shall be refunded if the patient making such payment shall be taken away within that period uncured and against the consent of the superintendent.

Section 8636 R. S. Missouri, 1929, makes provision for payment to the state hospital for persons committed as insane poor, and reads as follows:

"The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto. The counties thus sending shall pay semi-annually, in cash, in advance, such sums for the support and maintenance of their insane poor, as the board of managers may deem necessary, not exceeding eighteen dollars (\$18.00) per month for each patient; and in addition thereto the actual cost of their clothing and the expense of removal to and from the hospital, and if they shall die therein, for burial expenses; and in case such insane poor shall die or be removed from the hospital before the expiration of six months, it shall be the duty of the managers of such hospital to refund, or cause to be refunded, the amount that may be remaining in the treasury of such hospital due to the county entitled to the same; and for the purpose or raising the sum of money so provided for, the several county courts shall be

and they are hereby expressly authorized and empowered to discount and sell their warrants, issued in such behalf, whenever it becomes necessary to raise said moneys so provided for. And state hospitals are hereby expressly prohibited from receiving any county warrant in payment of any such sum as may be due by this section."

In 1935, Section 8636 R. S. Missouri, 1929, supra, was repealed and a new section was enacted in lieu thereof. That section is found in Laws of Missouri, page 388, (1935) and reads as follows:

"The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto. The counties thus sending shall pay semi-annually, in cash, in advance, such sums for the support and maintenance of their insane poor, as the board of managers may deem necessary, not exceeding six dollars (\$6.00) per month for each patient; and in addition thereto the actual cost of their clothing and the expense of removal to and from the hospital, and if they shall die therein, for burial expenses; and in case such insane poor shall die or be removed from the hospital before the expiration of six months, it shall be the duty of the managers of such hospital to refund, or cause to be refunded, the amount that may be remaining in the treasury of such hospital due to the county entitled to the same; and for the purpose of raising the sum of money so provided for, the several county courts shall be and they are hereby expressly authorized and empowered to discount and sell their warrants, issued in such behalf, whenever it becomes necessary to raise said moneys so provided for."

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We see, from the foregoing sections, that our Legislature has seen fit to make three separate provisions for method of payment to state institutions for support of insane patients. The question of which of the three is applicable to a given situation clearly depends on the particular type of patient which is admitted to the institution. Section 515 R. S. Missouri, 1929, requires the superintendents to accept all persons ordered confined by the probate court and reads thus:

"The superintendents of all state hospitals are hereby required to receive for such confinement and treatment in such institutions all such persons as may be lawfully ordered to be confined therein pursuant to the provisions of this law, to the extent of the capacity of such institutions to properly accommodate and care for such patients, which condition shall be ascertained by the probate judge by inquiry of the superintendent before making the order of confinement."

As we understand your given set of facts, the person you mention in your request is a drug addict, and that being the case, the applicable sections of our statutes are Sections 513 and 515 R. S. Missouri, 1929, supra. Neither of those sections has been repealed and both are therefore still in effect.

CONCLUSION

It follows from the above that the opinion of this Department is that in the case of a drug addict, the applicable section providing for method of payment for support is Section 513 R. S. Missouri, 1929. Failure to comply with Section 8636, Laws of Missouri, 1935, page 388, can have no bearing on the matter, as that section is applicable to an entirely different

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type of patient. It is not within the province of the superintendent of a State hospital to demand compliance with Section 8636 as a prerequisite to admission of a drug addict. The Legislature has decided that the method of payment in a case such as yours shall be as provided in Section 513 R. S. Missouri, 1929.

Respectfully submitted,

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APPROVED:

TYRE W. BURTON
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