

COUNTIES:  
CARE OF INSANE PERSONS:  
COLLECTION OF EXPENSES:  
FOR MAINTENANCE OF INSANE  
PERSONS:  
PROBATE COURT:

County expenses incurred in support and maintenance of an insane person may be recovered by the county from such insane person's guardian and curator or administrator.

February 18, 1952

Honorable Phillip A. Grimes  
Prosecuting Attorney  
Boone County  
Columbia, Missouri



Dear Sir:

This will acknowledge receipt of your request for an official opinion of this department, the pertinent part of which is as follows:

"The situation has arisen here in Boone County, as I am sure it has in other counties, in which incompetent persons confined in the state hospitals at county expense later come in to possession of funds which might be used to repay the county for the expense theretofore spent. Frequently the guardian is anxious to use these funds for that purpose.

"We have such a case now in which a ward has been maintained at county expense for over 35 years and has recently come in to possession through a litigation windfall of approximately \$900.00. The question for which I request an answer from your office is as follows:

"'Is it permissible for the county to accept reimbursement for this expense, the guardian being willing? Is it proper for the Probate Court to approve the guardian settlement in making such payment to the County?'"

Section 202.260, RSMo 1949, reads as follows:

"In all cases of appropriation out of the county treasury for the support and maintenance or confinement of any insane person, the amount thereof may be recovered by the

Hon. Phillip A. Grimes

county from any person who, by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same, and also the county may recover the amount of said appropriations from the estate of such insane person."

The above set out statute allows the county to submit a bill covering the expenses of over thirty-five years rendered in favor of the indigent insane person mentioned in your letter who has been paid for by the county for that time. Of course this is to be an itemized bill and no doubt will amount to much more than the \$900.00 in the estate of the deceased indigent insane person. This bill should then be attached to a claim and presented to the administrator of the deceased's estate as any claim would be and should be allowed by the probate court. Of course we realize that if the court allows the claim and it is much in excess of the \$900.00 in the estate all that the county can hope to recover is the \$900.00 at most.

You cite me the cases of Montgomery County v. Gupton, administrator, 139 Mo. 303; and Chariton County v. Hartman, 190 Mo. 71, both of which cases hold that the county cannot recover from the guardian, curator or administrator of an insane person. This was true in the days when these cases were decided because of the fact the statute under which they were decided was different from what it is at present. In these cases decided under the Revised Statutes of 1889, (Section 5557), the statute read as follows:

"In all cases of appropriations out of the county treasury for the support and maintenance or confinement of any insane person, the amount thereof may be recovered by the county from any person who by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same."

The statute was not amended until 1927 when it was enacted in its present form by adding the words "and also the county may recover the amount of said appropriations from the estate of such insane persons," which addition to the statute is the reason for our holding here that the county's expenses incurred in behalf of the indigent insane during his lifetime or after his death could be obtained during his lifetime from the guardian and curator of the said indigent insane person or by a claim filed with his executor or administrator after his death, but as we have suggested

Hon. Phillip A. Grimes

the submission of the county's itemized bill to be allowed by the probate court as in all claims in probate estates.

In the case of Barry County v. Glass, 160 S.W.(2d) 808, the Springfield Court of Appeals held that the county could recover and said at l.c. 809:

"Section 500 of the 1939 Revision of our Statutes reads as follows: 'In all cases of appropriation out of the county treasury for the support and maintenance or confinement of any insane person, the amount thereof may be recovered by the county from any person who, by law, is bound to provide for the support and maintenance of such person, if there be any of sufficient ability to pay the same, and also the county may recover the amount of said appropriations from the estate of such insane person.' (Italics ours.) The same provision is contained in Section 501, R.S. 1929, and that provision was in full force and effect when Glass was confined in the State Hospital at Nevada, Missouri, as a county indigent patient, and, under that section, the estate of Charles W. Glass, an insane person, was clearly liable for the money previously paid out by Barry County."

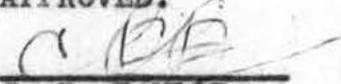
#### CONCLUSION

It is therefore the opinion of this office that the claim of a county for its expenses incurred in the support and maintenance of an insane person can be collected from the insane person's guardian and curator or the administrator of an insane person's estate under Section 202.260, RSMo 1949, as now enacted.

Respectfully submitted,

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APPROVED:

  
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ABE:mw