

APPROPRIATIONS: Kansas City not entitled to reimbursement from state for mental patients in hospital maintained by public funds in absence of appropriation therefor.



June 5, 1953

Honorable Newton Atterbury
State Comptroller & Budget Director
Jefferson City, Missouri

Dear Sir:

This will acknowledge the receipt of your letter of May 25, 1953, in which you request an opinion of this department. Such request, omitting caption and signatures, is as follows:

"We have received a requisition from the Department of Health of Kansas City, Missouri, which reads in part as follows:

"'TO THE STATE AUDITOR OF MISSOURI:

"'By authority of an order of the Director of Health of Kansas City, Missouri, made on the 9th day of April, 1953, requisition is hereby made on you accompanied by original accounts properly approved by said Director, for a warrant on the State Treasury in favor of said institution for the sum of ONE THOUSAND FOUR HUNDRED SIXTY EIGHT DOLLARS AND THIRTY CENTS (\$1,468.30) to pay for the State's obligation at \$8.00 per month for maintenance of psychiatric patients in facilities of the Department of Health of Kansas City, Missouri.

"'The above statement is correct.

"'Witness our hands and the Seal of our said Institution hereto affixed this 8th day of May, 1953.

Hugh L. Dwyer

Director of Health, Kansas City, Mo.'"

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"This requisition is supported by certification and records by the business manager of the Kansas City Department of Health. Please refer to Section 202.670, Revised Statutes of 1949 and Section 5200 of the Appropriation Laws of 1951, as well as Section 12, House Bill No. 224 of the 67th General Assembly. Section 202.670 seems to cover an institution such as maintained by the Department of Health of Kansas City, but the two appropriation laws seem to eliminate payments to Kansas City.

"It is our understanding both appropriations mentioned were requested by the hospital which is maintained by the City of St. Louis. We further understand the amount of money left in the appropriation will not cover payment to St. Louis.

"We will appreciate your advice as to what should be done in this matter."

There are three provisions of the statutes which must be examined in order to arrive at a solution to this problem. The first provision which we must study is Section 202.670, RSMo 1949, which provides as follows:

"Any county or city in this state which shall maintain from public funds a hospital for the care, detention or treatment of the insane, which hospital is properly equipped as to facilities, staff and personnel, shall be entitled to eight dollars per month per patient, upon proper report filed and sworn to by the superintendent of such hospital for the insane, when such report is filed with the state department of public health and welfare. Such reports shall be filed quarterly and shall show name, address and other necessary data so as to properly identify and authenticate the patients of such insane institution."

Under the above statute, there can be no question but that the Department of Health of Kansas City, Missouri, would be entitled to be paid by the State of Missouri,

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the sum of eight dollars (\$8.00) per month per patient, who is treated for mental disorders in a hospital maintained by the city from public funds for the treatment of such patients. However, in order that the State can pay such sum, there must be some money or fund from which it can be paid. To have available such funds, there must be an appropriation passed by the legislature. Therefore, we must determine if there has been an appropriation made for this purpose.

The first appropriation act which we wish to cite is Section 5.200, Laws of Missouri, 1951, p. 129, and which provides the following:

"Charity patients of county mental hospitals. --There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of One Hundred Thirty Thousand Dollars (\$130,000.00), or so much thereof as may be necessary, for the use of the Division of Mental Diseases for the purpose of paying the mental hospitals, established and maintained by any county or city not within a county in this state, the sum of Eight Dollars (\$8.00) per month, for each indigent insane person, detained and treated in such hospital, pursuant to the provisions of Section 9360, Revised Statutes of Missouri, 1939; for the biennial period beginning July 1, 1951 and ending June 30, 1953.

"Approved June 29, 1951."

It will be noted that the above sum of money was appropriated for the purpose of "paying the mental hospitals, established and maintained by any county or city not within a county in this state." A mental hospital, established and maintained by Kansas City, would not be established and maintained by a county nor by a city not within a county since Kansas City is in Jackson County. Therefore, it is our opinion that the Kansas City Health Department could not obtain payment from the fund created by the above appropriation.

The only other appropriation act pertaining to mental hospitals is found in House Bill #224, passed by the 67th General Assembly, and approved by the Governor May 18, 1953.

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Section 12 of said enactment prescribes as follows:

"There is hereby appropriated out of the state treasury, chargeable to the General Revenue Fund, the sum of Seventeen Thousand Dollars (\$17,000.00), or so much thereof as may be necessary for the use of the division of mental diseases for the purpose of paying the mental hospitals, established and maintained by any county or city not within a county in this state, the sum of Eight Dollars (\$8.00) per month for each indigent insane person, detained and treated in such hospital, pursuant to the provisions of section 202.670, RSMo 1949; for the period beginning January 7, 1953 and ending June 30, 1953.

"The foregoing amount is in addition to the amount appropriated for the same purpose for the 1951-1953 biennial period as set out in section 5.200 of House Bill No. 6, an act of the Sixty-sixth General Assembly."

Again it will be noted that that sum of money was appropriated "for the purpose of paying the mental hospitals, established and maintained by any county or city not within a county in this state." As in the case of the first appropriation bill cited, Kansas City cannot qualify for such funds.

The Kansas City Health Department is in a situation where it is entitled to a certain sum of money but due to a failure to have the legislature appropriate funds from which the payment could be made, the Comptroller and Budget Director of Missouri is not authorized to honor the requisition as presented by the Department of Health of Kansas City, Missouri.

CONCLUSION

Therefore, it is the opinion of this department that even though there is a statutory provision which entitles the Department of Health of Kansas City to receive \$8.00 per person per month for each mental patient confined to a hospital established and maintained by public funds, yet the Comptroller and Director of Budget of Missouri is not authorized to honor a requisition since there have been no funds appropriated from which such payment can be made.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. John S. Phillips.

Yours very truly,

JOHN M. DALTON
Attorney General

JSP:lw