

MILEAGE:
SHERIFFS:
STATE HOSPITALS:

In taking a patient or patients to or from a state hospital, the sheriff is only entitled to mileage for miles actually traveled.



November 8, 1955

Honorable Joe Collins
Prosecuting Attorney
Cedar County
Stockton, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"Our County Court made an order that the Sheriff transport one Paul James Chambers from Stockton, Cedar County to Marshall State School.

"The court also made an order that our Sheriff receive one Harvey Fitch, Jr. who was then a patient in the Marshall State School at Marshall, Missouri and transport him to State Hospital No. 3 at Nevada, Missouri.

"The Sheriff made one trip from Stockton, Missouri with a guard and delivered Paul James Chambers to the Marshall State School at which time he also received Harvey Fitch, Jr. from the Marshall State School and delivered him to State Hospital No. 3 at Nevada, Missouri, after which the Sheriff returned to Stockton, Missouri.

"As to Paul James Chambers the Sheriff billed the County for mileage from Stockton, Missouri to Marshall State School and return 292 miles.

"As to Harvey Fitch, Jr. the Sheriff billed the County for mileage from Stockton to the State School at Marshall to Nevada, Missouri to Stockton, Missouri-364 miles. The county Court allowed the mileage on the one trip of

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364 miles which was the distance covered by the Sheriff in the one trip he made delivering each party.

"Would you please advise if the actual miles traveled 364 miles is the proper mileage or was the Sheriff correct in billing the County for mileage in each case as it was separate cases and separate Court order."

In this regard we direct your attention to Section 202.630 RSMo 1949. This section refers to the power of the Superintendent of the Missouri State School at Marshall. Paragraph 2 of this section reads as follows:

"If any patient becomes dangerously insane, and be so certified by the superintendent, he shall be transferred and placed in the state hospital located nearest to the county from which said patient was sent. The expense of transfer to said hospital to be paid for by the county from whence said patient came."

Under the above, the sheriff is authorized to go from Stockton to Marshall, pick up an inmate of the Missouri State School there, transport him to the State Hospital at Nevada, go from Nevada to Stockton, and collect mileage for the miles actually traveled in going from Stockton to Marshall, Marshall to Nevada, Nevada to Stockton, which you estimate at 364 miles. We do not believe that the sheriff would be allowed any extra mileage for transporting the patient from Stockton to the Missouri State School at Marshall.

On October 11, 1937, this department rendered an opinion, a copy of which is enclosed, to Leo A. Politte, Prosecuting Attorney of Franklin County, in which we stated:

"Therefore, the mileage given him by statute is to compensate him for the trip, and if he takes more than one patient the expenses incurred by him would probably be the same. The intentions of the Legislature may be gleaned from the wording of the statute itself, because it allows \$1.00 per day 'to the support of each patient,' the Legislature must have taken into consideration those instances when the sheriff would take more than one patient, and while they allowed him only ten cents per mile for mileage, still they allow a dollar per day for each patient."

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On August 8, 1936, this department rendered an opinion, a copy of which is enclosed, to O. B. Jennings, Clerk of the Circuit Court of Howell County, in which we held that sheriffs shall be allowed mileage only for miles actually traveled in serving any writ. We believe the above statement of this principle of law to be correct, and applicable to your situation.

CONCLUSION

It is the opinion of this department that in taking a patient or patients to or from a state hospital, the sheriff is only entitled to mileage for miles actually traveled.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

Encs: Opinions to

Leo A. Politte;
O. B. Jennings.

HPW/ld/bi