PROSECUTING ATTORNEY'S COUNTY HOSPITAL DEPOSIT FEES:

It is the duty of the prosecuting attorney to institute and collect accounts due a county hospital; the $5 deposit in Magistrate Court is not required to be made when suits are filed to collect accounts due a county hospital

FILED
96

October 24, 1955

Honorable W. C. Whitlow
Prosecuting Attorney's Office
Fulton, Missouri

Dear Sir:

Your recent request for an official opinion reads:

> "Will you please advise me if my duties as Prosecuting Attorney include the instituting of suits for the collection of unpaid accounts for the Callaway Hospital?
>
> "On suits for the collection of accounts filed by the Callaway County Hospital is it necessary that the Hospital put up a $5.00 filing fee?"

In answer to your first question I enclose a copy of an opinion rendered March 5, 1953 to Curt M. Vogel, Prosecuting Attorney, Perry County, which, as you will note, specifically holds that it is the duty of the Prosecuting Attorney to institute actions to collect accounts due the county hospital, whose duty it is to render such service without fee.

In regard to the deposit in the Magistrate Court when such suits are instituted, which is your second question, I direct your attention to paragraph 1 of Section 483.615, which reads:

> "1. A fee of five dollars shall be allowed the magistrate in each civil proceeding, general, or special, instituted in his court. Upon the commencement of any such proceedings in the magistrate court except in cases instituted by the state, county, or other political subdivision the party commencing the same shall pay to the clerk of said court such magistrate fee of five dollars. The

> fees herein provided shall be charged against the losing party, and if recovered from said party the same shall be repaid to the party making the deposit of such fee."

From the above you will see that this deposit is not required where a civil suit is instituted by the state, county, or other political subdivisions. We believe that under this provision such suits as you mention would be exempt from making the deposit, since the county hospital is clearly a county institution.

In view of the above it is our opinion that in such suits as are contemplated by you that the $5.00 deposit not be made.

CONCLUSION

It is the opinion of this department that it is the duty of the Prosecuting Attorney to institute and collect accounts due a county hospital; that the $5.00 deposit in Magistrate Court is not required to be made when suits are filed to collect accounts due a county hospital.

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

Very truly yours,

JOHN M. DALTON
Attorney General

HPW/bi