

STATE MENTAL HOSPITALS: With respect to mentally ill persons,
COUNTY COURTS: Sections 202.780 to 202.870, RSMo 1959:
PROBATE COURTS:
INSANE PERSONS: (1) Section 202.863 requires patients be
INDIGENT PERSONS: classified as private or county patients
and that county court hold hearing within
ten days after notice by superintendent to determine indigency, sub-
ject to review by circuit court; (2) Sections 202.220 and 202.240
apply and permit redetermination by probate court of patient's pay
status; (3) Section 31.050, RSMo Cum. Supp. 1963, requires superin-
tendent to return patient to responsible party upon failure to pay
support; (4) Hospital has no right of recovery against county for
period pending determination of indigency; (5) Responsibility of
other persons for care of patient pending determination of indigency
depends on facts of individual case.

OPINION NO. 38 (1965)
OPINION NO. 422 (1964)

June 7, 1965

George A. Ulett, M. D.
Director
Division of Mental Diseases
722 Jefferson Street
Jefferson City, Missouri



Dear Dr. Ulett:

This is in response to an opinion request initiated by Manson B. Pettit, M. D., Superintendent of the St. Joseph State Hospital, which states as follows:

"Where does responsibility lie for support of a patient if it takes a year or more to prove that patient is indigent and has been for a definite time but in retrospect has been cared for in a state hospital without any payment?"

We understand that this inquiry relates to admissions pursuant to Sections 202.780 to 202.870, RSMo 1959, entitled "Commitment and Hospitalization of Mentally Ill".

The patients admitted to the state hospitals under the provisions of this law shall be classified as private patients or county patients and any claim which the State may have for the hospitalization of said patients should be considered in light

of Section 202.863 (2), (3), RSMo 1959, which is as follows:

"2. When admission is sought for any person as a private patient, payment for care and treatment shall be made to the business manager of the hospital for thirty days in advance and a bond executed in sufficient amount to secure the payment for such care and treatment. No part of the advance payment shall be refunded if the patient is taken away within such period uncured and against the advice of the superintendent.

"3. If any person is admitted to a state hospital who is unable to pay for care and treatment, the superintendent of the hospital shall notify the county court of the county of residence of the fact and the county court shall hold a hearing on the case within ten days following the notification. If it is determined at the hearing that the person is unable to pay for care and treatment the county court shall order the hospitalization of the person as a county patient. Appeals from the decision of the county court may be taken in the manner provided in section 49.230, RSMo." (Emphasis ours).

The provisions of Section 202.863, Subsection 3, supra, makes it mandatory that the county court hold a hearing within ten days following the notification by the superintendent of the hospital alleging that the patient is indigent. The right of appeal is therein expressly stated and appeals may be taken in the manner provided in Section 49.230, RSMo 1959.

Further, it is noted that the probate court of the proper county has the authority to certify, by its order, that the status of a patient be changed from pay patient to county patient, or from county patient to pay patient. The relative Sections are as follows:

Section 202.220, RSMo 1959. "Pay patients become county patients -- when. If the probate court of the proper county shall so order, the clerk thereof shall transmit to the superintendent a certificate, under his official seal, setting forth that any patient in a state hospital has not estate sufficient to support him therein. Upon the receipt of such certificate by the superintendent, such

person shall be a county patient of such county, and shall be supported by such county as provided by this law in the cases of poor patients."

Section 202.240, RSMo 1959. "County patients may become pay patients. If the probate court of the proper county shall so order, the clerk thereof shall transmit to the superintendent a certificate, under his official seal, setting forth that any county patient in the state hospital from his county has sufficient estate to support and maintain him at the hospital. After the receipt of this certificate, the patient shall be a pay patient; and in such cases, charges shall be made out and paid and a bond shall be required and executed as in all other cases of pay patients; and upon a failure thereof, after reasonable delay, the superintendent shall discharge such patient in the manner as provided in this law in case of poor persons."

Thus, the proper probate court may enter an order changing the pay status of a patient, although the initial determination is within the jurisdiction of the county court as provided in Section 202.863 (3), (except when the person has been committed from St. Louis City). In our opinion, there is no inconsistency in the application of these statutes. Section 202.863 (3) does not provide that the county court shall retain jurisdiction but rather, makes it mandatory that the county court hold a hearing within ten days after proper notice and if it is determined at the hearing that the person is unable to pay for care and treatment, the county court shall order the hospitalization of the person as a county patient. If the county court does not make such a determination, the patient must be classified as a private patient. At that point, the responsibility of the superintendent is clearly stated in Section 31.050 (2), RSMo Cum. Supp. 1963. We quote:

"2. Whenever any person has been received as a patient of any such institution, and thereafter the county, municipality, guardian, trustee or person responsible for the support of such patient shall neglect or refuse to pay, within the time and in the manner required by law or the rules and regulations of the department of revenue, any installment required to be paid for the support of

the patient, it shall be the duty of the superintendent of the institution to return the patient to the sheriff of the county or municipality, or to the guardian, trustee or person responsible for the payment of the installment, and at the expense of the county, municipality, guardian, trustee or person."

There is no statutory authorization for recovery by the hospital from the county for the lengthy interim period which is the subject of this inquiry. The right of recovery, if any, by the hospital against any other parties is dependent entirely upon the circumstances of the individual cases. The obligation of the county to pay for the care and treatment of an indigent must be based upon such determination and order of the county court under Section 202.863 (3), or by appeal from the decision of the county court, in the manner provided in Section 49.230, or by action of the proper probate court consistent with the provisions of Section 202.220. We do not find that there is a conflict between Section 202.863 and Section 202.220. In reaching this conclusion, we follow the established rule that statutes must be reasonably construed and harmonized with existing laws not expressly repealed thereby or inherently repugnant thereto. We further note that the provisions of Section 202.863 (5), relating to payments by the county for the care of their indigent mentally ill persons, provide that such sums shall be paid in advance. There is no statutory provision which would allow recovery from the county for the period prior to the determination of indigency.

CONCLUSION

With respect to persons in state mental hospitals who are there under the provisions of the statutes for mental illness, Sections 202.780 to 202.870, RSMo 1959, it is the opinion of this office that; (1) Section 202.863 requires that such patients be classified as private patients or county patients and that the county court must hold a hearing and reach a determination on the question of indigency within ten days following notification by the superintendent of the hospital and, that said determination is subject to review in the proper circuit court as provided in Section 49.230; (2) Sections 202.220 and 202.240 also apply and permit redetermination by the proper probate court of the question concerning the pay status of a patient; (3) that Section 31.050 makes it clearly the duty of the superintendent of the state hospital to return the patient to the applicable party specified therein, in the event of a failure to pay the required support

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obligation; (4) that the hospital has no right of recovery against the county for a lengthy period of care and treatment pending a determination of indigency; (5) that the responsibility of other persons for care and treatment of the patient during such lengthy interim period of care and treatment pending the determination of indigency must depend upon the facts of each individual case.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Yours very truly,


NORMAN H. ANDERSON
Attorney General