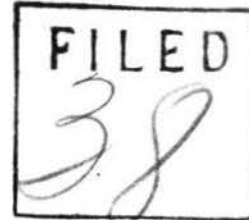


CANCER COMMISSION: Definition of the terms "legal residents" and "indigent patients" as used in Section 7 of the Laws of Missouri, 1937, page 497.

July 26, 1938



State Cancer Commission,  
3713 Washington Blvd.,  
St. Louis, Missouri.

Attention: Miss Dorothy Hehman,  
Executive Secretary

Gentlemen:

We acknowledge your recent request for an opinion as follows:

"Kindly render us an opinion as to the meaning of the phrase 'legal residents of Missouri' as used in Section 7 of the Session Acts of Missouri, 1937, page 497. Does this require that a person live a prescribed length of time in the state in order for him to become eligible for treatment for cancer?"

We would also like your opinion as to the meaning of 'indigent patients' as used in said section."

Section 7 of the Laws of Missouri, 1937, page 497, provides that the State Cancer Hospital is to provide for the care of legal residents of Missouri only as follows:

"The State Cancer Hospital shall be primarily and principally designed for the care and treatment of indigent persons afflicted with cancer, such scientific research as will promote the welfare of indigent patients committed to its care and for the care of legal residents of Missouri

only. Where such patient is unable financially to secure such care or, in the case of a minor, where the parent, guardian, trustee or other person having lawful custody of such minor's person, as the case may be, is unable financially to secure such care the State Cancer Hospital is hereby designated as a place of treatment for such persons."

The above section fails to define what constitutes a legal resident of Missouri. We have a number of sections in our statutes relating to residents but they throw no light on the question presented. Section 8893, R. S. Mo. 1929 provides in order for a person to be eligible for a blind pension he must have been "a resident of the State of Missouri for ten consecutive years or more next preceding the time for making application for the pension herein provided." Section 12 of the "Laws of Missouri, 1937, page 474, provides that Old Age Assistance shall be granted persons who have "resided in the state for five years or more within the nine years immediately preceding application for assistance and for the one year next preceding the date of application for assistance." And in the case of voters there is a specified length of residence required. Section 10178, R. S. Mo. 1929.

19 Corpus Juris, section 12, page 403, makes the following statement with reference to the period of time required to establish a residence in the absence of any statutory regulation on the subject as follows:

"In the absence of any statutory regulation of the subject, no definite period of residence or specified length of time in a particular place is required to establish a domicile, but when coupled with the element of intent, any residence, however short, will be sufficient, \* \* \* \*"

In the case of Trigg v. Trigg, 41 S. W. (2d) 583, l.c. 589, 226 Mo. App. 284, the court said:

"We hold in accord with the general expression of the law that residence is largely a matter of intention evidenced by some act or acts in conformity with such intention \* \* \*"

And in the case of *Nunn v. Hamilton*, 26 S. W. (2d) 526, l.c. 530, 233 Ky. 663, the court said:

"Legal residence consists of actual residence at a place, coupled with intent to remain at such place."

Again in the case of *Wade v. Wade*, 113 So. 374, l.c. 375, 93 Fla. 1004, the court said:

"Legal residence or domicile in this state may be acquired by one who, coming from another state or county, actually lives in this state within the intention of permanently residing here. \* \* \* \* Legal residence consists of fact and intention. Both must occur."

From the foregoing definitions we are of the opinion that "legal residents of Missouri" within the meaning of Section 7, supra, are such persons who, however short the period, actually live in the state of Missouri and do so with the intention of permanently residing here. Same to be determined by some act or acts in conformity with such intention.

## II.

In the case of *State ex rel. Buchanan County v. Imel*, 219 S.W. 634, l.c. 637, 280 Mo. 554, the court in holding that in the construction of the words of a statute they must be construed in connection with the context of the statute, said:

"\* \* \* Words, like things instinct with life, take color and force from their environment. An attempt, therefore, to construe the word free from its

setting in the phrase or sentence in which it appears or independent of the other words with which it is used, would deprive the inquirer of one of the well-recognized aids to interpretation and as a consequence lead to a lame conclusion as to the meaning of this portion of the statute.\* \* \* \*

Looking to the context of the statute we note that patients to be treated are those who are "unable financially to secure such care."

In the case of Weeks v. Mansfield, 80 Atl. 784, l.c. 786, 84 Conn. 544, the court, in defining the term "indigent", said:

"The term 'indigent,' on the other hand, is one which in its common acceptation is used with more direct and single reference to financial ability and resources. It is ordinarily used to indicate one who is destitute of property or means of comfortable subsistence, and for that reason is needy or in want.\* \* \* \* \*"

Does this mean, however, that a person must be a pauper? In the case of Depue v. District of Columbia, 45 App. D. C. 54, l.c. 59, the court answers this by saying that "to be indigent does not mean that a person must be a pauper."

A "pauper" is defined in the Week's case, supra, l.c. 786 as follows:

"The term 'pauper' has a distinct and well-defined meaning in our law. It is used to designate those persons whose support imposes a burden upon the public treasury. \* \* \* \* \*"

From the foregoing we are of the opinion that a person may be "indigent" within the meaning of Section 7

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supra, without being a pauper and that the term "indigent patients" as used in said section means any person lacking the property and resources necessary to secure medical and surgical treatment for tumors and diseases of a cancerous nature.

Respectfully submitted,

MAX WASSERMAN  
Assistant Attorney General

APPROVED:

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J. W. BUFFINGTON  
(Acting) Attorney General

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