

ELEEMOSYNARY INSTITUTIONS: City of St. Louis only required to pay expenses as set out in Section 8636, 1935 Session Laws.

February 21, 1939

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Mr. W. Ed Jameson, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your request of February 17, 1939, for an official opinion, which reads as follows:

"I enclose you herewith letter that I have just received from the deputy comptroller of the City of St. Louis with reference to charges for county indigent patients, together with copy of resolution passed by our Board instructing me to refer the matter to your department.

"At a meeting of our board some-time ago we made a list of the following articles that should be charged the county patients, some of which you will notice the City of St. Louis is declining to pay.

"Tooth brushes & powder	\$1.00 yr. (25¢ 4 times a year)
Tobacco	\$1.00 per month
Telephone & telegrams	Yes
Mending	25¢ to 40¢ month
False teeth	\$1.00 per plate \$6.00 set
Spectacles	when patient cannot be fitted at institution."

Section 8636, R.S. Missouri, 1929, which provided the payment of \$18.00 per month for each insane patient, etc., was repealed and a new section, 8636, was reenacted by the Session Laws of 1935, page 388, which reads as follows:

"The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto. The counties thus sending shall pay semi-annually, in cash, in advance, such sums for the support and maintenance of their insane poor, as the board of managers may deem necessary, not exceeding six dollars (\$6.00) per month for each patient; and in addition thereto the actual cost of their clothing and the expense of removal to and from the hospital, and if they shall die therein, for burial expenses; and in case such insane poor shall die or be removed from the hospital before the expiration of six months, it shall be the duty of the managers (managers) of such hospital to refund, or cause to be refunded, the amount that may be remaining in the treasury of such hospital due to the county entitled to the same; and for the purpose of raising the sum of money so provided for, the several county courts shall be and they are hereby expressly authorized and empowered to discount and sell their warrants, issued in such behalf, whenever it becomes necessary to raise said moneys so provided for."

This section is not ambiguous and does not provide for the payment of any items except \$6.00 per month for each patient; and in addition thereto, the actual cost of their clothing and the expense of removal to and from the hospital; and if they die therein, for burial expenses. This section does not provide for the payment by the county courts or the City of St. Louis of any other expense, and needs no construction.

It was so held in the case of State ex rel. v. Thompson, 5 S.W. (2nd) 57, l.c. 59, where the court said:

"The rule is well stated, as follows:

"'A statute is not to be read as if open to construction as a matter of course. It is only in the case of ambiguous statutes of uncertain meaning that the rules of construction can have any application. Where the language of a statute is plain and unambiguous and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself.' 25 R.C. L. 957; Trefny v. Eichenseer et al., 262 Mo. 436, 171 S.W. loc. cit. 932; Grier v. Ry., 286 Mo. 523, loc. cit. 534, 228 S.W. 454; State ex rel. Brown v. Board of Education, 294 Mo. 106, loc. cit. 115, 242 S.W. 85; R.S. 1919, Sect. 7058.

"A standard text states the rule as follows:

"'If the words (of the statute) are free from ambiguity and doubt and express plainly, clearly and distinctly the sense of the framers of the instrument, there is no occasion to resort to other means of interpretation. It is not allowable to interpret what has no need of interpretation. The statute itself furnishes the best means of its own exposition; and if the sense in which words were intended to be used can be clearly ascertained from its parts and provisions, the intention thus indicated will prevail without resorting to other means of aiding in the construction.' Lewis-Sutherland Stat. Const. vol. 2 (2d Ed.) p. 698."

The reason of the reenactment of Section 8636 was to reduce the expense upon the county and the City of St. Louis on account of other funds being allowed to the support of the state eleemosynary institutions. The section clearly states the amount that each county and the City of St. Louis shall pay for each patient, and even if it were ambiguous, the reason and sense will control in determining its meaning. It was so held in the case of Dahlin v. Missouri Commission for the Blind, 262 S.W. 420, l.c. 423, where the court said:

"A statute that is clear in its terms, and leaves no room for construction must be enforced as written, but if it is not clear, and there is any room for construction, then the reason and sense of the statute will control in determining its meaning. Keeney v. McVoy, 206 Mo. 42, 65 et seq., 103 S.W. 946; Stack v. General Baking Co., 283 Mo. 396, 411, 223 S.W. 89; * *."

If the City of St. Louis or any county would pay to the account of the state eleemosynary board for the maintenance of insane patients from their city or county, miscellaneous accounts such as tooth brushes, tobacco, telephone and telegrams, mending, false teeth, spectacles, etc., it would be a violation of Section 4090, R.S. Missouri, 1929, which reads as follows:

"Any member of the county court, common council or board of trustees, or officer or agent of any county, city, town, village, school township, school district, or other municipal corporation, who shall, in his official capacity, willfully or corruptly vote for, assent to or report in favor of, or allow or certify for allowance, any claim or demand, or any part thereof, against the county, city, town, village, school township, school township, school district or other municipal corporation, of which he is such officer or agent, or against the county court, common council or board of trustees of which

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he is a member--such claim or demand, or part thereof, being for or on account of any contract or demand or service not authorized or made as provided or required by law--every such person so offending shall, on conviction, be punished by imprisonment in the penitentiary not more than five years, or by a fine of not less than one hundred nor more than five thousand dollars, or by imprisonment in the county jail not less than two nor more than twelve months, or by both such fine and imprisonment."

CONCLUSION

In view of the above authorities, it is the opinion of this department that the separate counties and the City of St. Louis shall only pay an amount not exceeding \$6.00 per month for each patient; the actual cost of their clothing and the expense of removal to and from the hospital; and if they shall die therein, for burial expenses.

Respectfully submitted,

W.J. BURKE
Assistant Attorney General

APPROVED By:

HARRY H. KAY
(Acting) Attorney General

WJB:VAC