

ELEEMOSYNARY INSTITUTIONS: County Court can discount warrants to pay for the keep of their inmates in the institutions.

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November 10, 1941

Hon. Ira A. Jones, President  
Board of Managers  
State Eleemosynary Institutions  
Jefferson City, Missouri



Dear Sir:

We are in receipt of your request for an opinion, under September 8, 1941, which is as follows:

"A letter from the County Clerk of Dunklin County advises that the local banks of said county will buy Class 5 warrants at a slight discount and that the Eleemosynary Institutions can in turn bill Dunklin County for this discount.

"Will you please give us an opinion as to whether or not this can be done?"

Section 9328, R. S. Mo. 1939, 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 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."

It is very noticeable under the above section that it specifically states "the counties thus sending shall pay semi-annually, in cash, in advance, \* \*". It also further states "\* \* \* 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." The above wording is unambiguous and does not call for a construction. The court, by this phrase is authorized to sell at a discount their warrants.

In your request you state "\* \* local banks of said county will buy Class 5 warrants at a slight discount \* \*." Section 10911, R. S. No. 1939, provides in part as follows:

"The court shall classify proposed expenditures in the following order:

"Class 1: The county court shall set aside and apportion a sufficient sum to care for insane pauper patients in state hospitals. Class 1 shall be the first obligation against the county and shall have priority of payment over all other classes."

Class 5, under the same section, provides for the payment of the expense of paupers not otherwise classified.

Under Section 9258, R. S. Mo. 1939, it provides as follows:

"The state hospital No. 1, at Fulton, the state hospital No. 2, at St. Joseph, the state hospital No. 3, at Nevada, the state hospital No. 4, at Farmington, the Missouri state sanatorium, at Mount Vernon, and the Missouri state school, at Marshall, are hereby declared to be state eleemosynary institutions of the state of Missouri within the meaning of the provisions of this article."

Under the provisions of the above statute the legislature has designated four eleemosynary institutions as state hospitals, while those institutions at Mount Vernon and Marshall are given the names "The Missouri state sanatorium" and "The Missouri state school." By this designation our General Assembly has provided that those institutions at Fulton, St. Joseph, Nevada and Farmington, shall be state hospitals, while the other two eleemosynary institutions are given other designations.

Furthermore, it will be noted that Article 2, Chapter 51, R. S. Mo. 1939, deals specifically with state hospitals, while Article 5, of Chapter 51 provides for the state sanatorium at Mount Vernon and Article 6 of Chapter 51 relates to the Missouri state school at Marshall. On account of the different designations as above set out, when the county budget act says that the care of insane pauper patients in state hospitals shall be paid out of Class 1, it obviously meant only those institutions specifically designated as state hospitals in the statutes. Therefore, the care of the indigent patients in the Missouri state sanatorium and the Missouri state school may not be paid for by the counties out of Class 1, but must be paid out of Class 5 of the county budget.

In view of the above classifications and, since you state that the local banks of said county will buy Class 5 warrants, we are assuming that these warrants are issued only for the support of patients at the Missouri state sanatorium and the Missouri state school and not for the support of patients in hospitals set out in Section 9258, supra.

Under Section 9328, supra, it specifically states that "the counties thus sending shall pay semi-annually in cash, in advance, \* \* \*." Since this section specifically states the mode of the payment by the counties to the Board of Managers of the eleemosynary institutions it cannot be done in any other manner. It was so held in the case of State ex rel. Kansas City Power & Light Co. v. Smith, 111 S. W. (2d) 513, 342 Mo. 75, where the court in its opinion in effect states "that the expression of one thing in a statute is the exclusion of another." In view of the above case, all of the cash should be paid in advance at the time of the entrance of the patient into the institution, but after he is there the county may discount their warrants and pay a part of their debt to the eleemosynary institution and may then be billed as in other cases for the difference, which is the amount of the discount. This deficiency is the same as any other debt and the county can be sued for the deficiency by the eleemosynary institutions.

CONCLUSION.

In view of the above authorities it is the opinion of this department that where a patient is now in either the Missouri state sanatorium or the Missouri state school the county may discount its warrants drawn under Class 5 for the payment of the keep of their patients and the eleemosynary institution may bill them for the deficiency which is the amount of the discount of the warrants sold to the local banks of Kennett, in Dunklin County. It is further the opinion of this department that this procedure cannot be followed to obtain entrance of a patient to either of the institutions for the reason that under Section 9328, R. S. Mo. 1939, the amount due from the county court to the Board of Managers of the eleemosynary institutions must be paid six months in advance in cash. It is further the opinion of this department that the same procedure may be followed in the payment of the keep of patients now in State Hospital No. 1 at Fulton, the State Hospital No. 2 at St. Joseph, the State Hospital No. 3 at Nevada and the State Hospital No. 4 at Farmington, providing the warrants discounted are drawn under the County Budget Act under Class 1.

Respectfully submitted,

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Assistant Attorney-General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney-General

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