In Biennial Report of the Attorney General, 1951-1952, at page 12, No. 1247, the then Attorney General ruled that a lawfully licensed chiropractor is the legal practitioner of a school of medicine recognized by the laws of Michigan under the laws governing public hospitals, and as such is entitled to treat patients in a County Hospital under Act 350, P.A. 1913, as then amended (the Act as now amended is found at M.C.L.A. § 331.151, et seq., M.S.A. 1969 Rev. Vol., § 14.1131, et seq.).

In construing Section 13 of the Act, the Attorney General construed a chiropractor as a "physician" as used in that section. The cases and authorities are collected and discussed in O.A.G. No. 1247.

P.L. 89-97, Title XIX, § 1902(a)(10)(A)(i)[2], a pertinent provision of the Federal Social Security Act, provides in pertinent part that medical assistance thereunder "shall not be less in amount, duration, or scope than the medical assistance made available to individuals receiving aid or assistance under any other such state plan."

Under the above and foregoing authority, it is my view and I advise you, as you have hitherto been advised by members of my staff, that chiropractors are clearly physicians and their services are physicians' services constituting medical services as that term is used in Act 321, P.A. 1966. Therefore, the Department of Social Services may and indeed must pay chiropractors for services rendered by them under the Medicaid Program.

FRANK J. KELLEY,
Attorney General.

700925.1

MENTAL HEALTH: County, liability for care of persons committed to state mental hospitals.

County liability for cost of persons committed to state mental hospitals where change of residence occurs between date of commitment and date of admission.

No. 4689 September 25, 1970.

R. Bernard Houston, Director
Department of Social Services
Commerce Center Bldg.
Lansing, Michigan

You have requested opinion in connection with several questions regarding the liability of the county for the first year's care of persons committed to state hospitals in situations where change of residence has occurred between the date of commitment and the date of admission. Your general question is as follows:

> "Is the county of liability for the first year's care in a state institution the county of residence at the time of commitment or the county of residence at the time of admission?"

---

[2] 42 U.S.C. § 1396a.

Section 11 of Act 151, P.A. 1923, being M.C.L.A. § 330.21; M.S.A. 1970 Cum. Supp. § 14.811, provides in pertinent part that where a mentally diseased person is ordered admitted to a state mental hospital under the act:

> ". . . then the county of which such person is a resident shall be liable to the state for the care and maintenance of such person for one year. The liability of the county of residence of such patient shall commence as of the date such person is detained under the final order of commitment by the probate court in any hospital, home, retreat or other suitable place of retention . . . ." M.C.L.A. § 330.21; M.S.A. 1970 Cum. Supp. § 14.811.

I therefore advise you that the clear language of the statute places liability upon the county where the patient resides as of the date the person is admitted to the hospital.[1]

You further state that there is no clear understanding in the various counties as to the application of the section when a committed child is not admitted for a long period of time due to lack of available space at an institution, or the family of a committed child has moved and established residence in another county between the date of commitment and the date of admission.

The lack of understanding in the counties may be alleviated by review of the precise wording of the statute.

You further call attention to M.C.L.A. § 330.24; M.S.A. 1969 Rev. Vol. § 14.814, which provides in pertinent part as follows:

> "After said order for admission has been regularly made and entered as provided herein, the judge of probate shall mail a certified copy of such order to the medical superintendent of the institution to which the patient has been committed, and upon receipt of such order the medical superintendent shall, as soon as there is room for such patient at such institution, notify the judge of probate of that fact, whereupon the judge of probate shall cause the patient to be transported to said institution for admission thereto: . . . Provided further, that no person shall be admitted to any such institution under such order after the expiration of one (1) year from and including the date of such order, unless the probate court shall issue a new order for said commitment based on such information as the court may require." M.C.L.A. § 330.24; M.S.A. 1969 Rev. Vol. § 14.814.

You ask whether the section gives the committing court discretion to refuse to issue a new order for commitment when he learns of the change of residence since the original order was entered, and the effect of the committing court renewing the order at a time when the family has moved and established residence in another county.

You are advised that once the court has acquired jurisdiction over the person of the individual committed the court does not lose jurisdiction by reason of the change of residence of the individual. Therefore, the answer

---

[1] Cf. O.A.G. 1941-42 No. 22718, p. 538; O.A.G. No. 2719, September 18, 1956, p. 558; O.A.G. No. 4053, September 28, 1962, p. 538.

to your question is in the plain language of the statute, which provides that "no person shall be admitted . . . under such order after the expiration of one (1) year from and including the date of such order, unless the probate court shall issue a new order for said commitment based on such information *as the court may require.*" (Emphasis supplied) An entirely new proceeding is not required.[2]

Mere change of residence would, of course, not effect the need of the individual for hospitalization or the fact that such individual had been adjudged insane pursuant to law.[3]

The answer to your second question, then, is that the probate court may enter a new order for commitment upon whatever information the court deems relevant whether or not the family of the patient continues to reside in the county of original commitment. Full new proceedings are not required.

Your next question is as follows:

> "What is the effect to the liability of a county which issues an order when the family has moved between the date of petitioning and the date the order is issued?"

Answering your question, the statute plainly fixes the liability as of the date when the patient is admitted. In the case you put this would be the county to which the family has moved.

FRANK J. KELLEY,
Attorney General.

701103.1

[2] O.A.G. 1950, No. 1145, p. 445, copy attached.

[3] M.C.L.A. § 334.21; M.S.A. 1970 Cum. Supp. § 14.811, provides for the filing of a petition for commitment in the county where the patient resides *or may be.*

CONSTITUTIONAL LAW: State aid to nonpublic schools.

Proposed amendment prohibiting use of public funds for nonpublic schools discussed.

No. 4715 November 3, 1970

Representative Marvin R. Stempien
House of Representatives
The Capitol
Lansing, Michigan

You have requested my legal opinion concerning proper interpretation of the proposed constitutional amendment which will appear on the ballot as Proposal C on November 3, 1970.

The precise wording of the proposed constitutional amendment was drafted by a citizens group and appeared on initiative petitions bearing signatures in excess of 320,000 registered electors. The statement of the proposal appears in the following language: