

71011.1

OPINIONS

MENTAL HEALTH: County liability for care of persons committed to regional diagnostic and treatment centers of the State Department of Mental Health.

County liability for care of persons committed to regional diagnostic and treatment centers includes centers designated in general hospitals having psychiatric facilities as well as state mental institutions, if so designated. Liability of county occurs only subsequent to court commitment of patient to state as public pay patient, and includes commitments on temporary, diagnostic and final orders. Voluntary admissions are not included. The county is liable for only one year's care and maintenance of state public pay patient during the lifetime of the patient.

No. 4717

January 11, 1971.

E. G. Yudashkin, M.D., Director
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You ask several questions concerning the applicability of that portion of Section 11 of Act 151, P.A. 1923, as amended (M.C.L.A. § 330.21; M.S.A. Cur. Mat. § 14.811) providing for the county of residence of one ordered admitted to a state mental hospital to be liable to the state for the care and maintenance of such patient, as that section relates to regional diagnostic and treatment centers.

Section 44 of Act 151, P.A. 1923, as amended, defines a regional diagnostic treatment facility as follows:

“ . . . ‘Institution’ may mean any of the hospitals, homes, or institutions included in section 1¹ of this act; a ‘regional diagnostic and treatment center’ shall include any institution as previously defined which is certified as such by the state mental health commission for the reception of persons for intensive treatment and diagnostic study for alleged mentally ill, mentally handicapped and/or epileptics, any private or public hospital accredited by the American board of psychiatry and neurology for the training of psychiatric residents or any other psychiatric hospital which is certified by the state mental health commission as a regional diagnostic and treatment center for alleged mentally ill, and any other private or public institution which is certified by the state mental health commission as a regional diagnostic and treatment center for alleged mentally handicapped or epileptics; . . . ”
(M.C.L.A. § 350.54; M.S.A. 1969 Rev. Vol. § 14.844)

¹ Section 1 of the act, being M.C.L.A. § 330.11; M.S.A. 1970 Cum. Supp. § 14.801, enumerates by name the various state institutions operated by the Department of Mental Health.

The relevant portion of Section 11 of the subject act is as follows:

“. . . In case the admission of such mentally diseased person is ordered as a patient after the effective date of this act, then the county of which such person is resident shall be liable to the state for the care and maintenance of such patient for 1 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 detention except as otherwise provided by law. When a person is temporarily committed to a regional diagnostic and treatment center under the provisions of this act . . . the period of such temporary commitment shall be credited to the 1-year period of care for which the county is liable. A county shall not be liable for the care and maintenance of any mentally diseased person for more than a total of 1 year during the lifetime of such person. . . .” (M.C.L.A. § 330.21; M.S.A. Cur. Mat. § 14.811)

Your questions will be stated and dealt with *seriatim*, as follows:

“1. Is the county of residence of the patient responsible for payment to the hospital of first year costs for diagnosis and treatment of the patient while the patient is at the regional center?”

By the clear provision of the above quoted statute, the county is so liable, provided that the court has committed the patient as a “public pay” patient so as to make the public responsible for his maintenance.

“2. In the event a county has paid for treatment of one of its residents at such a regional diagnostic and treatment center and such person were to be transferred to a state hospital for additional treatment, would the county payment for treatment at the regional center be regarded as partial discharge of the county obligation for payment of first year costs of treatment?”

In answering this question, it should be borne in mind that the provision for the county to pay for the first year’s maintenance of state patients applies only to patients ordered committed to state facilities as public pay patients, pursuant to Section 11 of the subject statute. Therefore, any costs incurred by the county prior to the court order of commitment to the diagnostic and treatment center could not be credited to the county. Any costs paid by the county subsequent to the commitment to the state diagnostic and treatment center should be credited, since the statute now provides that a county “shall not be liable for the care and maintenance . . . for more than a total of 1 year during the lifetime of such person. . . .”

“3. If a patient were to be under treatment in such a regional center beyond one year, would the state then be responsible for the payment for care to the regional center?”

The state would be responsible for the payment of care in the regional center only for patients committed to such center, and only for the period from and after such commitment. The county would be liable to reimburse the state for the first year after such commitment.

“4. Would the county of residence be responsible for payment of

first year costs to such regional centers for all types of admissions of mentally ill persons including temporary orders, diagnostic orders, final commitments, voluntary admissions?"

The statute relates only to patients committed to state facilities as public pay patients. Therefore the statute has no application to voluntary patients. As to patients ordered admitted to state regional diagnostic and treatment facilities, as public pay patients, on temporary orders, diagnostic orders, and final commitment, the above quoted statute specifically makes the county of residence liable to reimburse the state for the first year's care and maintenance of such state patient.

FRANK J. KELLEY,
Attorney General.

710120.1

CONSTITUTION OF MICHIGAN: State Highway Commission.

HIGHWAYS AND ROADS: State Highway Commission.

Legislation to establish a department of transportation and transfer function of the department of state highways to such department would violate Article V, Section 28 of Michigan Constitution of 1963.

Authority to administer public mass transportation functions related to air, rail, water, motor carriers, may be conferred by the legislature upon the State Highway Commission.

No. 4713

January 20, 1971.

Mr. Charles H. Hewitt, Chairman
Michigan State Highway Commission
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Lansing, Michigan

By letter dated October 15, 1970, you ask two questions, the first of which is paraphrased as follows:

Could the legislature establish a Department of Transportation and transfer the functions of the Department of State Highways to such department and subject the State Highway Commission, a Constitutional body, to its administrative control?

The Michigan legislature is the repository of all legislative power subject only to limitations and restrictions imposed by the constitution. The constitutionality of state legislation must be determined in light of such limitations and restrictions imposed by the people through the constitution. These restrictions may be expressed or fairly implied. *Oakland County Taxpayers' League v. Oakland County Supervisors* (1959), 355 Mich. 305; *Washington-Detroit Theatre Co. v. Moore* (1930), 249 Mich. 673; *In re Brewster Street Housing Site* (1939), 291 Mich. 313; *Attorney General, ex. rel. O'Hara v. Montgomery* (1936), 275 Mich. 504; *Moore v. Harrison* (1923), 224 Mich. 512; *Child Welfare Society of Flint v. Kennedy School District* (1922), 220 Mich. 290; 16 *Am. Jur. 2d* "Constitutional Law" § 228 *et seq.*