

State Orphans' Home, Inmate of. Medical Expenses, Home Chargeable With.

An inmate of the state orphans' home, under the age of sixteen years, discharged into the custody of a person but not fully and regularly discharged from the institution, became sick and was treated at the Murray hospital: Held, that the charge would be an obligation against the home, and payable as any other medical or hospital bill incurred for the benefit of an inmate.

August 28th, 1913.

Hon. S. V. Stewart,
Governor of the State of Montana,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication of the 9th instant, in regard to the bill of the Murray Hospital for the operation upon, and care of, and nursing of, one Albert Foss, a charge of the state orphans' home at Twin Bridges. Your letter states that he was an inmate, duly and regularly committed, but that about eight months ago he was discharged into the custody of one J. A. Swanstrum. I assume, however, that Foss was still under sixteen years of age, and a proper person to be under the charge of the state orphans' home, except for this arrangement with Mr. Swanstrum, and that he had not been under this arrangement fully and regularly discharged from the institution.

The question of maintenance of children in the orphans' home has previously been considered by this office in an opinion to the state board of examiners, found in Volume 4 of the Opinions of the Attorney General, at page 490. It was there held that children confined in the state orphans' home are maintained at the expense of the state, and that there is no legal obligation on the part of the parents of such child to contribute to its support. I am assuming for the purposes of this discussion that the taking of Foss from the institution by Mr. Swanstrum was merely an arrangement between the authorities of the home and Swanstrum, presumably for the good of the child. It does not appear that any proceedings were had for the adoption of the boy, or that any specific contract was entered into as to medical charges. If this be true, there could be no legal obligation on the part of Swanstrum to pay the bill of the Murray Hospital, for if the boy was still under the charge of and jurisdiction of the state orphans' home it would be chargeable with any bill for necessary medical expenses.

You are, therefore, advised that if Foss had not been regularly discharged from the institution by reason of having reached the age of sixteen years, or by adoption, or for some other reason, the charge of the Murray Hospital would be an obligation of the state orphans' home, payable in the same manner as any other medical or hospital bill incurred for the benefit of one of its inmates.

Yours very truly,

D. M. KELLY,
Attorney General.