

Insane Asylum—Estates—Indigent Persons.

The state may recover from the after-acquired estate of an insane person for the cost of such person's maintenance at the state insane asylum, even though the patient was originally admitted as an indigent person.

Dr. H. A. Bolton,
Superintendent,

July 8, 1926.

Montana State Hospital,
Warm Springs, Montana.

My dear Dr. Bolton :

Your letter enclosing "Renunciation of Administration" in the matter of the estate of Dennis Braniff has been received.

You have asked whether the insane asylum could present a claim for the maintenance of this patient who was committed as an indigent person.

Our statute (section 1444 R. C. M. 1921) provides, in substance, that at the time of an insanity hearing evidence shall be taken as to the financial worth of the insane person and if it appears that the insane person has property that can be applied toward his maintenance it is the duty of the court to make an order to that effect.

You will observe that the statute does not declare that after-acquired property of an insane person shall be liable for the maintenance of the patient at the asylum. In the absence of such a statute the courts are divided upon the question as to whether such an estate is chargeable for the maintenance of the patient in a state or county institution.

In the case note to the case of *State vs. Ikey's Estate* (Vt.) Ann. Cas. 1913, B, page 575, will be found a discussion of this question together with citation of authorities.

In the California case of *in re Yturburru's Estate*, 66 Pac. 729, it was held that in the absence of statute the state can recover from the estate of an insane person the reasonable value of his maintenance on the ground that the things furnished him, as required by law, were necessities.

The rule above announced has also been followed by many other courts, and it seems to me to accord with the evident intent of our legislature in the enactment of section 1444, supra.

It is, therefore, my opinion that the state may recover from the after-acquired estate of any insane person for the cost of maintenance at the state insane asylum, even though the patient was originally admitted as an indigent person.

Very truly yours,
L. A. FOOT,
Attorney General.