

No. 377

**COUNTY COMMISSIONERS—POOR—NON-RESIDENT,
responsibility for hospitalization of**

Held: The county in which a non-resident without means is sick is responsible for board, nursing, medical assistance and hospitalization necessary until he can be returned to the state of his legal residence.

March 21, 1942.

Mr. Roland V. Colgrove
County Attorney
Musselshell County
Roundup, Montana

Dear Mr. Colgrove:

You have requested my opinion concerning a claim filed by the Ramsey Hospital of Roundup, Montana, with the Board of County Commissioners. The facts concerning said claim are as follows:

A resident of Wyoming left there about October 16, 1941, and arrived in Billings, Montana, on the 18th day of October, 1941. On or about October 21, 1941, he obtained a position in Petroleum County and went there to work. While on the job, he was taken seriously ill with pneumonia, and was picked up by a truck driver and brought to the Ramsey Hospital on October 25, 1941. Mrs. Ramsey has submitted claims to Musselshell County, one of which has been approved by the county commissioners. Additional claims have been submitted but disapproved. The patient in question is penniless and is still confined to the hospital.

The question for determination is whether Musselshell County is liable for hospitalization and medical care of this party.

From the facts it appears this party is a non-resident of the state, having been in the state but a few days before he was taken sick.

Prior to the enactment of Chapter 82, Laws of 1937, the authority, duty and responsibility of county commissioners for the care, support, and maintenance of the county poor, and for the care and maintenance of the indigent sick and infirm of the county, were governed by Sections 4521 to 4541, inclusive, Revised Codes of Montana, 1935. Chapter 82 was enacted for the purpose of taking advantage of federal aid in rendering assistance to needy persons. Prior to the enactment of Chapter 82, the entire burden was on the county. Under this act, insofar as the aged, dependent children and needy blind persons are concerned, the federal government and the state share with the counties. Assistance given others is the legal and financial responsibility of the county, aided only by grants-in-aid from state funds in cases where county funds prove inadequate.

Part II of Chapter 82 deals with general relief or assistance to all persons who do not qualify for old age assistance, aid to the needy blind or aid to dependent children. Subsection (d) of Section II of this part provides:

“(d) Inter-state transients, without legal Montana residence, shall not be eligible for continued assistance from state funds but may, if in distress, receive temporary relief from either state or county funds until such time as such transients may be returned to their state of legal residence or state of origin. If transient families are stranded and without means of return, their transportation may be paid from state funds.”

Section VI of Part II, Chapter 82, Laws of 1937, as amended by Chapter 129, Laws of 1939, provides, insofar as applicable here,

"Medical aid and services and hospitalization for persons unable to provide such necessities for themselves are hereby declared to be the legal and financial duty and responsibility of the board of county commissioners, payable from the county poor fund. . . ."

But, aside from the provisions of Chapter 82, *supra*, I think the facts here presented come more squarely within the provisions of Section 4530, Revised Codes of Montana, 1935, which provides:

"Persons falling sick to be cared for. When any non-resident without means is sick within any county in this state, and not able to pay his board, nursing, or medical attendance, the board must, on application being made, give assistance to such person as is necessary, and if the person dies, the board must give him a decent burial, and make allowance for the expenses incurred and order the same to be paid out of the county treasury."

It will be noted Section VI, Part II, Chapter 82, *supra*, does not use the term "resident" or "non-resident," but provides medical aid, services and hospitalization "for persons unable to provide such necessities for themselves" are the legal and financial duty and responsibility of the board. And Section 4530, *supra*, provides that, when "any non-resident" without means is sick within the county, the board must provide board, nursing or medical attendance. Hence, whether the person here in question be a non-resident or a transient, it would seem clear the county wherein he is sick is responsible for such board, nursing, medical assistance and hospitalization as are necessary until such person can be returned to the state of his legal residence or origin.

While under Part VII of Chapter 82, *supra*, certain specific statutes are repealed, Section 4530, *supra*, is not one therein mentioned. It cannot be said this section is inconsistent with any provisions of Chapter 82 to such an extent it may be said to be repealed by implication.

"Repeals by implication are not favored, and it will not be presumed that by a subsequent enactment the legislature intended to repeal former laws upon the subject not mentioned."

State v. Bowker, 63 Mont. 1, 6, 205 Pac. 961;

Jobb v. Meagher County, 20 Mont. 424, 51 P. 1034.

When we read Section 4530, *supra*, in connection with the provisions of Chapter 82, *supra*, dealing with the subject, it follows that—under the facts here presented—Musselshell County is responsible for the board, nursing, medical assistance and hospitalization necessary, until the party may be returned to the state of his residence.

Sincerely yours,

JOHN W. BONNER
Attorney General