

Opinion No. 63.**Montana State Tuberculosis Sanitarium
—“Free Patient” County, liability of.**

Held: The liability of a county which has once assumed the obligation of paying for the treatment of a patient at the tuberculosis sanitarium under the provisions of Section 1520, Revised Codes of Montana, 1935, continues until the patient is discharged by the authorities of the institution.

June 8, 1943.

Dr. F. I. Terrill, Superintendent
Montana State Tuberculosis
Sanitarium
Galeu. Montana

Dear Dr. Terrill:

You have requested my opinion on the liability of a county for the expense of treatment of a person admitted to the sanitarium as a “free patient” under the provisions of Section 1520, Revised Codes of Montana, 1935. The following are the facts:

“On April 12 the county commissioners of Lincoln County advised me that they would not be responsible for the care of a patient here, after April 15 because the patient’s husband had failed to reimburse them for her care. Her admission application states that she is indigent and that Lincoln County would be responsible for her care here.”

You further advise, that in your opinion, this patient is not ready for discharge and that treatment should be continued.

Section 1520, Revised Codes of Montana, 1935, provides persons unable to pay for their care and treatment upon application to the local authorities having charge of the poor, may be admitted as free patients. The specific provision of said section pertinent here is as follows:

“... Every person who is declared, as herein provided, to be unable to pay for his or her care and treatment, shall be transported to and from the sanitarium at the expense of said local authorities, and cared for, treated and maintained therein at the expense of said local authorities, or municipality

which would otherwise be chargeable with the support of such poor or indigent persons, and the expense of transportation, treatment, maintenance and actual cost of articles of clothing furnished by the sanitarium to such poor and indigent persons, shall be a county or town charge, as the case may be . . .”

From the facts, it appears this patient was admitted as a free patient, certified as such by the board of county commissioners under the provisions of Section 1520, *supra*. The liability of the county thereupon attached and the cost of transportation, treatment, maintenance and actual cost of articles of clothing furnished such patient, is a liability of and a proper charge against Lincoln County.

The evident policy and purpose of the legislature in establishing a state tuberculosis sanitarium were twofold, contemplating both the treatment of the unfortunate sufferer from tuberculosis and “miners” consumption, and also, the protection of society from the spread of these diseases. To accomplish these purposes, it was the intention the treatment should be of such duration that would, insofar as possible, insure a cure, or, at least, prevent a re-occurrence. If by refusing to pay, a county could interrupt the treatment, the whole purpose thereof would be nullified.

It may be the county had some private arrangement with the husband of the patient whereby he was to reimburse the county. However this may be, such arrangement would not relieve the county of its legal obligation imposed by the statute.

It is therefore my opinion the liability of which a county has once assumed the obligation of paying for the treatment of a patient at the tuberculosis sanitarium under the provisions of Section 1520, Revised Codes of Montana, 1935, continues until the patient is discharged by the authorities of the institution.

Sincerely yours,
R. V. BOTTOMLY
Attorney General