

Opinion No. 16

**Counties—County Welfare Boards—Medical Aid and Hospitalization—
General Relief—Residence.**

Held: (1)—Where a resident of Montana is injured and hospitalized in a County of Montana other than the County of residence, as between the County of hospitalization and the County of residence, the latter should pay the expense of hospitalization.

April 25th, 1949.

Mr. Robert F. Swanberg
County Attorney
Missoula County
Missoula, Montana

Dear Mr. Swanberg:

You have requested my opinion upon the following factual situation:

"Mrs. X was injured in an automobile accident in Missoula County on October 23, 1947. The case was considered to be an emergency and a hospital in Missoula provided care for the patient without authorization from anyone. Mrs. X was discharged from the hospital in December, 1947. She had never previously resided in Missoula County and left Missoula County immediately after her dismissal from the hospital. From February 1, 1948 to August 1, 1948, Mrs. X received a General Relief grant for subsistence through the Yellowstone County Department of Public Welfare. The hospital bill has never been paid, as the Missoula County Department of Public Welfare and the Yellowstone County Department of Public Welfare are unable to agree as to who should bear the expense. Also, Mrs. X has told the Yellowstone Department that she intends to pay the bill, although she has not done so as yet."

The questions that arise out of such facts are: Who should pay the hospital bill, Missoula County or Yellowstone County, or is it incumbent upon either County to pay the expense?

The applicable provision of the Public Welfare Act is Section VI, Part II of Chapter 82 of the Laws of 1937, as amended by Chapter 129, Laws of 1939, Chapter 117, Laws of 1941, and lastly by Chapter 155, Laws of 1947. Section VI, as contained in Chapter 155, is as follows:

"Medical Aid and Hospitalization. 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. . . . And provided further that in automobile accident cases wherein transients traveling through the State of Montana are injured, medical aid and hospitalization shall be paid for by the County wherein the accident occurred and the Department of Public Welfare shall reimburse such County in full upon proper claim being made to the Department of Public Welfare."

You state that in your opinion that last quoted portion of Chapter 155 is controlling and that Missoula County should pay for the hospitalization and could then be reimbursed by the State Department of Public Welfare. I am unable to agree with such a conclusion. In my opinion the last portion of Chapter 155 deals only with indigent persons, who are not residents of the State of Montana, and who are traveling **through** the State, and does not apply to residents of Montana who are traveling about in the State of Montana.

I agree with you that the last portion of Chapter 155 was passed upon the recommendation of the Montana Supreme Court in the case of *Musselshell County v. Petroleum County*, 118 Mont. 1, 161 Pac. (2d) 905. However, the facts in that case are distinguishable from the instant case. In the *Musselshell County* case the patients were indigent non-residents of the State of Montana merely traveling through the State, and the Court felt that it was inequitable that the County wherein the accident happened to occur should bear the whole cost of hospitalization, and recommended that the State as a whole assume the burden in such a case. In the instant case, Mrs. X was not a non-resident traveling through the State. She was a resident of the State traveling in the State and as between the County wherein the accident occurred and the County of residence, it is my opinion that the County of residence should bear the burden.

That Mrs. X was a resident of Yellowstone County at the time of her injury and hospital treatment is demonstrated by the fact that Yellowstone County accepted Mrs. X for General relief payments on the 1st of February, 1948. Section II, Part II of Chapter 82, Laws of 1937, as amended by Section 11, Chapter 129, Laws of 1939, and by Section 4, Chapter 117, Laws of 1941; states the eligibility requirements for general relief as follows:

"An applicant to be eligible for general relief, hereafter entering the State, must have resided in the State of Montana for a period of three years, one year or more of which must be in the

County where he makes application for relief. When a person has gained residence in a County making him eligible for general relief, he shall retain this residence until residence has been gained in some other County in the State, and such new residence shall only be gained by living continuously in such County for one year or longer."

It is not within the province of this office to decide the question of whether the hospital can recover against Yellowstone County, inasmuch as Mrs. X has demonstrated a willingness to pay the bill. That is a private matter to be decided elsewhere.

Therefore, the only question answered herein concerns the respective liability of Missoula County and Yellowstone County, and as between these Counties, it is my opinion that the latter should bear the expense of the hospitalization of Mrs. X.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.