

Opinion No. 35

**Counties—Public Welfare Act—Medical Aid and Hospitalization—
General Relief—Old Age Assistance—Residence.**

Held: 1. Where an individual who retains a General Relief Residence in one County of the State of Montana is hospitalized in another County of the State of Montana, the County of General Relief Residence must be responsible for the expense of hospitalization even though the individual is receiving Old Age Assistance benefits from the County wherein he was hospitalized.

July 7th, 1949.

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

Dear Mr. Swanberg:

You have requested my opinion upon the following set of facts:

"H received old-age assistance from Carbon County for approximately five years preceding March 1st, 1948. On March 1st, 1948, his case was transferred to Missoula County for Old Age Assistance Payments. H entered a Missoula Hospital on the 19th of March, 1948 and remained there until his death on the 26th of March, 1948. H had not resided in Missoula County for a period of one year at the time of his death."

You state that the hospital bill has not been paid and the question has arisen as to who should be liable for such bill, Missoula County or Carbon County?

The applicable provisions of the Montana Statutes are contained in the Public Welfare Act enacted by Chapter 82, Montana Session Laws of 1937. The provisions for medical aid and hospitalization for indigent persons are in Part II, the General Relief Part of the Act.

Section VI of Part II of Chapter 82 of the Montana Session Laws of 1937, as amended, reads in part as follows:

"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. . . ."

Section VII of Part II of Chapter 82 of the Montana Session Laws of 1937, as amended, reads in part as follows:

"It is hereby declared to be the primary legal duty and financial obligation of the Board of County Commissioners to make such tax levies and to establish such budgets in the County poor fund as provided by law and as are necessary to provide adequate institutional care for all such indigent residents as are in need of institutional care and to make such tax levies and establish such budgets in the County poor fund as are necessary to make provisions for medical aid and services and hospitalization for all indigent County residents. . . ."

The question now arises, who can qualify as a "County Resident", to the end that a particular County is responsible for the hospitalization of such person, as provided in the above quoted Sections of the Public Welfare Act. Since, as stated above, these Sections are included in the General Relief portion of the Act, the residence requirements for General Relief must be examined. Section II of Part II of Chapter 82, of the Montana Session Laws of 1937, as amended, reads in part 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 his 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. . . ." (Emphasis mine.)

Applying the above quoted Section to the facts at hand it becomes evident that H was still a resident of Carbon County at the time of his death on March 26th, 1948, at least for the purpose of General Relief under the Public Welfare Act. Since H had not lived continuously in a County other than Carbon County for a period of a year, his residence to qualify and make him eligible for medical aid and hospitalization was retained in Carbon County.

It should be noted at this point that the residence requirements to make one eligible for General Relief are not the same as the requirements in the case of Old Age Assistance. Section II of Part II of Chapter 82, above quoted sets out a one-year period of continuous residence for General Relief eligibility. Section XII of Part III of Chapter 82 provides that the payments for a recipient of Old Age Assistance who moves from one County to another shall be chargeable to the second County after six months time. Therefore it can be understood how H could have his residence in Missoula County for the purposes of Old Age Assistance and yet still retain his residence in Carbon County for the purposes of General Relief.

Since H is a resident of Carbon County for the purposes of General Relief and the provisions in the Public Welfare Act concerning medical aid and hospitalization are contained in the General Relief part of the Act and Section VII of Part II of Chapter 82 specifically sets out that "County residents" are to be accorded medical aid and hospitalization, it is my conclusion that Carbon County is, under the factual situation herein set forth, responsible for the hospitalization connected with the final illness of H.

I do not feel that this conclusion is weakened in the least by reason of the fact that both Section VI and VII of Part II, Chapter 82 Montana Session Laws of 1937, as amended, contain the following quotation:

"It is provided, however, that the cost of medical aid and services and of temporary hospitalization for recipients of old age assistance, of aid to dependent children and of aid to needy blind may be added to each one of these forms of assistance so long as the total monthly grants to any person does not exceed the amount in which the Federal Government will participate; and provided, further, that necessary expenditures of these purposes, in excess of the amounts in which the Federal Government will participate shall be paid from the County poor fund."

It is my view that the above prescribed use of State and Federal funds for medical aid and hospitalization for recipients of Old Age Assistance can only be taken advantage of when the residence for Old Age Assistance and the residence for General Relief are one and the same, that is, the normal case wherein the recipients' residence is the same for all purposes. Inasmuch as the General Relief residence is the

primary factor considered under the medical aid and hospitalization provisions, it must control and establish the responsibility therefore in a situation such as is presented herein.

There is also no merit, in my opinion, to the contention of Carbon County to the effect that it is not liable in this instance in that the Board of County Commissioners of Carbon County has a policy whereby no medical care or hospitalization contracted outside the County of Carbon will be honored unless arrangements are made prior to services rendered or immediately after commitments have been made in case of emergency. The record in this case discloses that Carbon County was informed of H's entrance into the hospital by a letter dated March 22nd, 1948, some three days after H's hospitalization. Even without such notice it is doubtful if Carbon County could escape responsibility since the Public Welfare Act makes it the "legal and financial duty and responsibility of the Board of County Commissioners, payable from the County poor fund" and a County cannot arbitrarily, or otherwise, establish a policy which will evade such statutory responsibility. Therefore, it is my opinion that, as in this case, when an individual retains a General Relief residence in one county and is hospitalized in another County, that the County wherein such General Relief Residence is maintained must be responsible for the expense of hospitalization even though the individual is receiving Old Age Assistance benefits from the County wherein he was hospitalized.

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