

Opinion No. 51
County Poor Fund — Inebriates —
Montana State Hospital — Cost
Of Care And Maintenance

HELD: The County Poor Fund is the proper fund to charge for expenses of the county in providing care, maintenance and treatment for indigent inebriates at the Montana State Hospital located at Warm Springs, Montana.

December 29, 1955

Mr. J. J. Cavan, Jr.
 County Attorney
 Yellowstone County
 Billings, Montana

Dear Mr. Cavan:

You have requested my opinion on the following question:

Which county fund should bear the expense of maintaining inebriates at the State Hospital when those persons legally liable for support cannot provide?

At the outset, I wish to call your attention to Section 1, Chapter 130, Laws of 1955, which amended Section 38-707, R.C.M., 1947, to read as follows:

“Charges For Maintenance and Treatment Of Patient. The cost for care and maintenance of all persons committed to the Montana state hospital for inebriates shall not exceed the following amounts: Three dollars (\$3.00) per day for the first ninety (90) days from and after the date of first admission, and thereafter not to exceed the sum of two dollars (\$2.00) per day. Should the person admitted, or the persons legally liable for his support, be found to be financially unable to pay for the cost of care and maintenance the same shall be a proper charge against the county from which the patient is admitted.”

Also, Section 2, Chapter 130, Laws of 1955, amended Section 38-708, R.C.M., 1947, so that the statute now declares:

“Financial Condition of Patient —Liability of Relatives. (1) When-

ever an examination or hearing for committal to the state hospital for inebriates is had and the person is adjudged and ordered to be confined in the state hospital for inebriates, it shall be the duty of the judge, the clerk of the district court and the county board of public welfare to determine the financial condition of the person admitted and the persons legally liable for his support, and to make an order relative to the payment of the charges for the cost of care and maintenance in accordance with the provisions of section 38-214.”

The effect of the 1955 amendments was to place financial responsibility upon the counties when the person committed is without funds and there are no relatives financially able to pay the charges levied in Section 38-707, supra.

Under the provisions of Section 38-214, R.C.M., 1947, as amended by Section 1, Chapter 49, Laws of 1955, a person who is unable to pay, and for whom there is no person legally liable for his support, is classified as an “indigent person.”

In 23 Report and Official Opinions of the Attorney General 30, No. 11 at page 32, a similar statute pertaining to the State Tuberculosis Sanitarium was construed as follows:

“In the light of the above statutes, it is my opinion that the expense of maintenance of a patient sent to the State Tuberculosis Sanitarium should be paid from the County poor fund.”

Your attention is also directed to Section 71-103, R.C.M., 1947, which provides:

“Intemperate Person Not Entitled To Support. When any person becomes poor from intemperance or other vice, he is not entitled to any support from relatives, except from parent or child.”

Section 71-104, R.C.M., 1947 states:

“When A Person May Receive Relief From The County. When such person does not have the relatives mentioned in section 71-102, in any county, or such rela-

tives are not able, or fail or refuse to maintain such person, then he must receive relief from the county, as hereinafter provided."

Section 71-106, R.C.M., 1947, gives the board of county commissioners power to provide for the care and maintenance of the innocent sick and to erect and maintain hospitals therefor. The statute declares such shall be supported from certain tax levies which constitute the county poor fund.

It would be excessively expensive for each county to erect a county hospital for inebriates. In recognition of this, the legislature created a State Hospital and Section 38-707, supra, merely complements Section 71-106, supra, by outlining the method of creating a fund to maintain such a hospital. This fund is known as the "County Poor Fund."

See further, Section 71-308, R.C.M., 1947, which announces, as applicable:

"Medical Aid And Hospitalization. Medical aid 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 . . ."

It is therefore my opinion that the county fund which should be chargeable for the expense of maintaining inebriates at the State Hospital is the "County Poor Fund."

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