

## VOLUME NO. 36

## Opinion No. 98

**COUNTY COMMISSIONERS — Duties; responsibility for hospitalization of indigent persons; MENTAL HEALTH FACILITIES — Financial responsibility for voluntary and involuntary commitment; PUBLIC WELFARE — Indigent sick. Sections 38-1303, 38-1305, 38-1306, 71-308, Revised Codes of Montana 1947.**

**HELD: 1. A county is financially responsible for a voluntary commitment proceeding of an indigent person.**

**2. A county is financially responsible for an involuntary commitment proceeding of a person who has sufficient financial resources.**

September 9, 1976

Mr. Ronald W. Smith  
Hill County Attorney  
48 Second Avenue  
Havre, MT 59501

Dear Mr. Smith:

You have requested my opinion on the following questions:

1. Is a county responsible for the voluntary commitment proceedings and all costs incurred thereof of an indigent person?
2. Is a county responsible for an involuntary commitment proceeding for a person who has sufficient resources?

In regard to your first question, I refer your attention to section 71-308(1), R.C.M. 1947, which reads, in part, as follows:

Medical aid and hospitalization for nonresidents within the county and county residents unable to provide such necessities for themselves are the legal and financial duty and responsibility of the board of county commissioners, except as otherwise provided in other parts of this act, payable from the county poor fund...

It is well established in Montana that when the terms of a statute are plain, unambiguous, direct, and certain, the statute speaks for itself and there is nothing to construe. **Montana Chapter, National Electrical Contractors Assn. v. State Board of Education**, 137 Mont. 382, 352, P.2d 258 (1960). Section 71-308(1), *supra*, clearly provides that the county commissioners are responsible for "medical aid" to indigent persons in their county. Voluntary admission to a mental health facility, as defined in section 38-1302(6), R.C.M. 1947, falls within the purview of "medical aid" to indigent persons.

This is supported by section 38-1303(5), R.C.M. 1947 which provides that the costs of transportation to a mental health facility for a voluntary admission are to "...to be provided by the patient, his parents, guardian, **or the welfare department of the county of the patients residence.** (Emphasis provided) It seems clear, therefore, that a county is responsible for all costs incurred in the voluntary commitment proceedings of an indigent person.

Your second question concerns whether a county is responsible for the costs involved in an involuntary commitment of a person who has sufficient resources.

Involuntary commitment is provided for in sections 38-1305 and 38-1306, R.C.M. 1947. Section 38-1305, **supra**, requires the county attorney to file a petition requesting an evaluation of a person's condition; examination and evaluation of the person by a professional person; and a court hearing to determine whether the person should be examined for an additional 72 hours. Section 38-1306, **supra**, provides for a commitment petition and details the procedure involved in committing a person who is seriously mentally ill.

Although the above-cite statutes do not specify who is to bear the costs of an involuntary commitment, it is obvious the legislature intended the county to pay the costs. An involuntary commitment involves detaining a person who is adjudged to be seriously mentally ill, often against their will. "Seriously mentally ill" is defined in section 38-1303(13), R.C.M. 1947 to mean: "...suffering from a mental disorder which has resulted in self-inflicted injury or injury to others, or the imminent threat thereof; or which has deprived the person afflicted of the ability to protect his life or health."

It cannot be assumed that the legislature intended for a person to bear the expense of their own unwilling detention, even though it may often be for their own good. The personal financial resources of the individual are not of consequence.

This interpretation is reinforced by section 38-1303(4), R.C.M. 1947 which provides that where a person has been voluntarily admitted to a mental health facility and involuntary proceedings are later commenced, the cost of involuntarily committing the patient shall be borne by the county of the patient's residence at the time of admission. The purpose of the section is to have the county of the patient's residence pay the costs of commitment where the patient has been voluntarily admitted to a mental health facility in another county. The underlying intent of this section is that the county of the patient's residence should bear the cost of the involuntary commitment.

**THEREFORE, IT IS MY OPINION:**

1. A county is financially responsible for a voluntary commitment proceeding of an indigent person.
2. A county is financially responsible for an involuntary commitment proceeding of a person who has sufficient financial resources.

Very truly yours,  
**ROBERT L. WOODAHL**  
Attorney General